



ZONING REGULATIONS DRAFT UPDATE

MARCH 31, 2020

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ARTICLE 1. GENERAL APPLICATION

SECTION 1.1. MINIMUM REGULATIONS. 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 1.2. 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 1.3. PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS. 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.

SECTION 1.4. CONSTRUCTION. The following rules of construction shall apply unless inconsistent with the plain meaning of the context of the Ordinance.

1. **TENSE:** Words used in the present tense include the future tense.
2. **NUMBER:** Words used in the singular include the plural, and words used in the plural include the singular.
3. **SHALL AND MAY:** The word "shall" is mandatory; the word "may" is permissive.
4. **GENDER:** The masculine shall include the feminine and the neutral.
5. **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 1.5. GENERAL TERMINOLOGY. The words "city" and "municipality" shall mean the City of Gering, Nebraska. The term "city council" shall mean the City Council of Gering, Nebraska. The term "planning commission" shall mean the Planning Commission duly appointed by the municipality. The term "board of zoning adjustment" and "board" shall mean the Board of Zoning Adjustment duly constituted in accordance with these regulations.

SECTION 1.6. 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 playhouses, barbecue ovens, fireplaces, 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

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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. Agricultural Produce Stand: An open or enclosed area of 200 square feet or less that sells produce raised on the property on which the stand is located or is raised / produced within 1 mile of the stand location.
4. Agricultural Services: Agricultural and farming services providing information, consulting, equipment, and supplies to the agricultural industry. Examples include government agricultural extensions, crop brokers and shippers, produce distributors and wholesalers, and veterinarians.
5. 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.
6. 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.
7. Alteration: Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another, shall be considered as an alteration.
8. 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.)
9. Animal Husbandry: The science of breeding and caring for farm animals.
10. 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.
11. Apartment House: See Dwelling, Multiple.
12. 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

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normally found in automobile service stations. An automobile service station is not a repair garage nor a body shop.

13. Automobile Service Station – limited: Same as Automobile Service Station except the number of gasoline pumps shall not exceed eight (8).
14. 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.
15. Basement: A story having not more than one-half (½) of its height below grade. A basement is counted as a story for height regulations if subdivided and used for a separate dwelling unit.
16. Bed and Breakfast: A residential dwelling, or portion thereof, in which rooms are rented to paying guests on an overnight basis with not more than one (1) meal served daily, with the entire service to be included in one (1) stated price. The operator of the bed and breakfast shall live on the premises.
17. 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.
18. Block Front: All of the property on one side of a street between two intersecting streets.
19. 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.
20. Brewery: Brewery shall mean any industrial use that brews ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined) annually.
21. Brewery, Micro: Micro Brewery shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution retail or wholesale, on or off premises, with a capacity of not more than 10,000 barrels per year. The development may include other used such as a standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.
22. Brew Pub: Brew Pub and shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging, shall not exceed 50 percent of the total floor area of the commercial space.
23. Buildable Area: The portion of a lot remaining after required yards have been provided.
24. 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.
25. 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.
26. 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)
27. 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. A campground includes any buildings, structures, vehicles or enclosure used or intended for use or intended wholly or in part for the accommodation of transient campers.
28. Camping Unit: Any vehicle, tent, trailer, or other moveable shelter used for camping purposes.

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29. Carport: An open sided shelter for vehicle consisting of a roof supported on posts. A carport may be a stand-alone structure, built beside a building or attached to a building. For the purposes of these regulations a carport is considered an accessory structure.
30. Cemetery: Land used or intended to be used for the burial of the dead and dedicated for such purposes, including crematoriums and mausoleums.
31. City: Shall mean the City of Gering.
32. Clinic: (See Medical, Dental or Health Clinic.)
33. Collector Street: (See Street Network, Collector.)
34. Commercial Retail: The sale of goods to end users, not for resale, but for use and consumption by the purchaser. Retail involves the sale of merchandise from a single point of purchase directly to a customer who intends to use that product.
35. Commercial Services: The provision of non-manufacturing activities / services to households, as well as other commercial or industrial business customers. Such services may require an external equipment yard, vehicle fleet parking, or storage area as part of conducting business.
36. Commercial Services – limited: The provision of non-manufacturing activities / services to households only. Such services cannot have an external equipment yard, vehicle fleet parking, or storage area. The service activity must be conducted within the primary building and/or off-site, and parking provision is limited to the employees working on site and customers visiting the site to do business.
37. 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.
38. 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.
39. 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.
40. 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.
41. Conditional Use Permit: A conditional use permit is a written permit issued by the Zoning Administrator with the written authorization of the Planning Commission. This conditional use permit provides permission under specific conditions to allow certain conditional uses of land in certain zoning districts as stipulated.
42. Convenience Store: A retail store in a convenient location, stocking a limited range of household goods and groceries. Such a store may or may not be associated with on-site provision of gasoline as allowed or restricted by the applicable zoning district.
43. Cul-De-Sac: Is a street having one end open to traffic and being terminated by a vehicular turnaround.
44. Day Care: (each type of day care shall be governed by applicable home occupation standards, as well as other local, state and federal regulations)
 - a. Family Child Care Home - licensed to provide a child care program in the licensee's residence to at least four but not more than twelve children. The provider of the day care services must live in the home and those receiving day care services may not stay overnight.
 - b. Child Care Center- licensed to provide a child care program for 13 or more children. A center may be located in the licensee's residence or another location. Those receiving day care services may not stay overnight.

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- c. **In-home Day Care:** In-home day care for 4 or more adults. The provider of the day care services must live in the home and those receiving care may not stay overnight.
45. **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.
46. **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.
47. **Dwelling:** Any building or portion thereof which is designed for and used exclusively for residential purposes.
48. **Dwelling, Accessory:** Is a room or set of rooms that has been designed or configured to be used as a separate dwelling unit from the primary dwelling unit and has been established by permit.
49. **Dwelling, Live/Work:** A live/work unit means a building providing the resident and opportunity to live and work at the same location. Generally, the work space has some street exposure and there is a separate entrance from the residence. The residence may be located above and/or behind the work area.
50. **Dwelling, Loft:** A dwelling unit located on the upper floor(s) (not on the ground or basement level) of a commercial building. A lot may be part of a live/work unit.
51. **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 (also see tiny home):
- 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;
 - 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;
 - The dwelling shall have no less than nine hundred (900) square feet of floor area;
 - The dwelling has a minimum width across front, side, and rear elevations of eighteen (18) feet;
 - 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;
 - The dwelling shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
 - 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
 - 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 a Mobile / Manufactured Home Park or a tiny home community.
52. **Dwelling, Two-Family:** A building designed for, and independently occupied by two (2) families exclusively.
53. **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.
54. **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.

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55. 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.
56. 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.
57. 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 predicated a preference for seniors housing on either standard or from imposing more stringent requirements on such a preference for seniors on either standard.
58. 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.
59. 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.
60. 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.
- a. For purposes of this definition, feedlots shall be classified according to the registered capacity. The registered capacity of such feedlots shall be as follows:
- i. First Class Feedlot - 5,000 or more animal units
- ii. Second Class Feedlot - 501 to 4,999 animal units
- iii. Third Class Feedlot - 50 to 500 animal units
- b. 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.
61. 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.
62. Floodway - Commission: A floodway whose limits have been designated and established by order of the Nebraska Natural Resources Commission.
63. 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.
64. 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:
- i. One-half ($\frac{1}{2}$) the basement floor area.

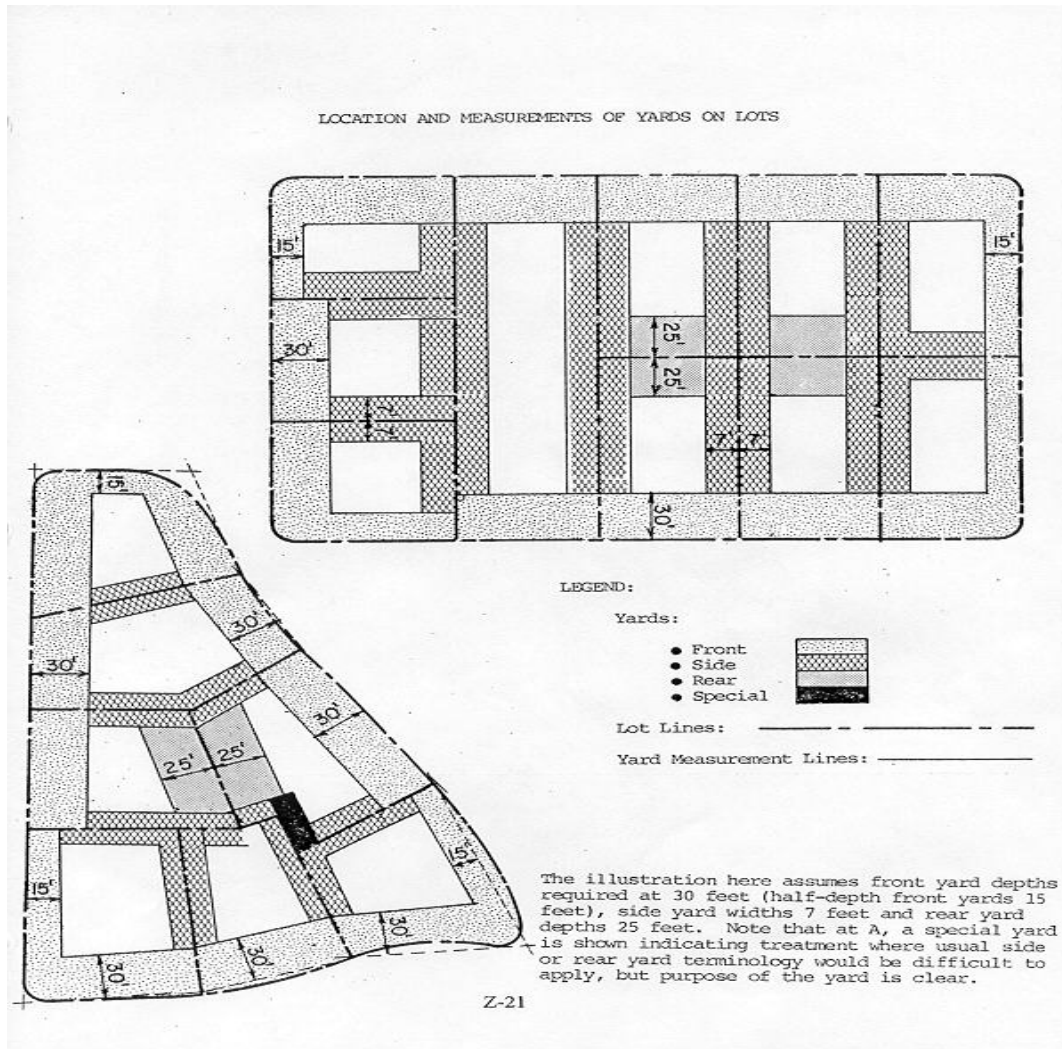
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- ii. The area of each floor of the structure.
 - b. Floor area determining floor area ratio: As used herein shall be computed as the sum of the following areas:
 - i. The gross horizontal areas of the several buildings measured from the exterior faces 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).
 - ii. Penthouses.
 - iii. One-half (½) the basement floor area.
 - iv. Interior balconies.
 - v. Enclosed porches.
 - vi. Floor area devoted to accessory uses.
 - vii. 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.
65. Frontage: The length of the property abutting on one side of a street measured along the dividing line between the property and the street.
66. 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.
67. 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.
68. Governing Body: The Mayor and Council of the City of Gering, Nebraska.
69. 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.
 - d. Any wall approximately parallel to and not more than five feet (5') from a street line is to be considered as facing the street.
70. Group Home: A home where a small number of unrelated people in need of care, support, or supervision can live together, such as those who are elderly or mentally ill.
71. Group Shelter / Transitional Housing: Housing which serves as temporary living quarters for a group of persons, who may include, but are not limited to, those who are homeless or who suffer from spousal, child, or substance abuse, or who are physically and mentally handicapped, and wherein counseling services may be provided to these persons.
72. Home Occupation: An accessory use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services.
73. 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.
74. Industrial Services: The provision of services to customers engaged primarily in a process which creates or changes raw or unfinished materials into another form or product.
75. Institution: A building occupied by a non-profit corporation or non-profit establishment for public use.

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76. 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.
77. 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.
78. Kennel-Breeder: Any place, area, building or structure where more than one dog is kept for purposes of breeding or raising for a fee.
79. 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.
80. Local Street:(See Street Network, Local.)
81. 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.
82. 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.
83. 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.
84. 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.
85. Lot, Corner: Indicated as "A" in the diagram below, 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 A¹ in the diagram below.
86. Lot Depth: The distance between the midpoint of the front lot line and the midpoint of the rear lot line.
87. Lot, Interior: Indicated as "B" in the diagram, an interior lot is defined as a lot other than a corner lot with only one frontage on a street.
88. 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.
89. 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).

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90. 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.
91. Manufacturing / Fabrication / Assembly: the process in which something is made (fabricated) from raw or semi-finished materials and/or assembled from ready-made components or parts by hand or by machinery.
92. Manufacturing / Fabrication / Assembly – limited: Same as manufacturing / fabrication / assembly except the activity is and is secondary to or supports the primary use of a building or property and is limited to hand made or the use of small power tools with no more than five (5) employees involved in the process.
93. Meat Locker – a refrigerated compartment, room or portion of a building used for the storage of fresh or frozen meat / food. This use does not include the slaughtering / killing process or rendering of by-products from such process.
94. 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.

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95. Mobile / Manufactured 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.
96. Mobile / Manufactured 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. A mobile park includes 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.
97. 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.
98. 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.
99. 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.
100. Parkways: Those streets which are similar to an arterial, but with a large median for landscaping and somewhat slower traffic flow.
101. 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.
102. Pedestrian Ways: A tract of land dedicated to public use, which cuts across a block to facilitate pedestrian access to adjoining streets or properties.
103. Planning Commission: The Gering Planning Commission.
104. 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.

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105. 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.
106. 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.
107. 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.
108. Repair Services – Automobile: an automobile service provider offering one or more of the allowed repair services listed under Automobile Service Station definition, and/or one or more of the following services: major mechanical and body work, straightening of body parts, painting, welding, refurbishing / restoration, or other similar services, and limited storage of automobiles not in operating condition awaiting repair. Such facility is not an automobile or mechanical salvage or wrecking yard.
109. Repair Services – Automobile limited: an automobile service provider offering one or more of the allowed repair services listed under Automobile Service Station definition.
110. 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.
111. 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.
112. Screening: Decorative fencing or vegetation maintained for the purpose of concealing from view the area behind such fencing or vegetation.
113. Service Station: (See Automobile Service Station.)
114. Service Station - limited: (See Automobile Service Station – limited)
115. Setback: Setback shall mean the minimum horizontal distance between a property line and the wall of a building / structure or any projection thereof (i.e. eaves, architectural projections, deck, etc.), excluding steps.
116. Short-Term Rental: as the rental of property, a dwelling unit or a portion thereof for a period of less than 30 consecutive days, unless the rental meets the definition of “Boarding or Lodging House”, “Hotel” or “bed and breakfast”.
117. 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.
118. 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.
119. 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.
120. Storage / Warehouse: A building / property primarily used for storing / warehousing goods, materials, and products for assembly, distribution, manufacturing and/or sales purposes.
121. Storage / Warehouse – limited: A dedicated area that is used for storing / warehousing goods, materials, and products, and is secondary to or supports the primary use of a building or property.

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122. 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.
123. 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.
124. 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).
125. Street Centerline: Shall mean a line midway between the street lines.
126. 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.
127. 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.
128. 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.
129. 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.
130. Tavern: An establishment in which the primary function is the public sale and serving of alcoholic beverages for consumption on the premises.
131. 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.
132. Tiny Home: A residential dwelling unit that complies with the requirements of Section 5.7.5 of these regulations and which is of such dimensions as to be able to be located upon lots with square footage less than that required by the RH Residential High-Density District and still comply with the height and yard requirements of the RH district.
133. Tiny Home Community: A planned community designed for tiny homes that complies with Section 5.7.5 of these regulations.
134. 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

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of the presence of non-conformities in the zoning district or uses in adjoining zoning district or because of conditions created by the landowner.

135. 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.
136. 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. 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. 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.
137. 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.
138. 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.
139. 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.
140. 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.
141. Zoning Administrator: The person authorized and empowered by the Governing Body having jurisdiction to administer the requirements of these zoning regulations.
142. Zoning Area: The area to be zoned as set out on the Official Zoning Map filed on record.

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143. Zoning Regulations: The term zoning regulations of this or these regulations shall mean the requirements stipulated in the regulations herewith attached.

SECTION 1.7. NONCONFORMANCE

1.7.1. INTENT. It is the general policy of the City to allow uses, buildings and lots that were created legally and in conformance with then-applicable requirements, but that do not conform to the current applicable requirements of these regulations, to continue. However, it is also the policy of the City to bring such uses, buildings and lots into conformance with current regulations as is reasonably practical. The intent of this section is to balance the interests of property owners in past investments, discourage investment that expands or reinforces nonconforming situations, and promote investment consistent with the Comprehensive Plan and these regulations.

1.7.2. NONCONFORMING USES. Uses that were legally initiated prior to the adoption or amendment of this Code, but which could not be continued under the current terms of this Code, may continue to exist subject to the following:

1. The use may not be expanded beyond any specific area of the site or lot, but may be expanded within any existing building.
2. Any activity that triggers specific site design standards shall require full compliance of the site design standards in order for the nonconforming use to be allowed to expand.
3. A use that is discontinued for one year or more shall lose its nonconforming status, and all future use of the site or building shall comply with these regulations.
4. Any change of use shall be to a conforming use.

1.7.3. NONCONFORMING STRUCTURES. Structures that were legally constructed prior to the adoption or amendment of this Code, but which could not be constructed under the current terms of this Code may continue to exist subject to the following:

1. Rehabilitation or expansion of the structure that increases the degree of nonconformity is prohibited. Other rehabilitation or expansions may occur; provided, that they comply with all other requirements of this Code, are not detrimental to the purposes, intent and objectives of the standards, and do not negatively impact development in conformance with this Code on adjacent property.
2. If destroyed by fire, natural disaster, accident, public enemy or terrorist by less than 50 percent of its appraised value, the structure may be restored to its original condition if the restoration is started within six (6) months and completed within one (1) year of the event triggering the restoration.
3. If the structure is determined obsolete or substandard by virtue of any applicable code beyond this title, and the cost of improvement or restoration is 50 percent or more of the appraised value of the structure, then the right to maintain the nonconformance shall terminate.

1.7.4. NONCONFORMING SITE CONDITIONS. Any site condition associated with a conforming use or structure (such as parking, landscape, open space or other non-building site characteristic) in existence prior to these regulations but which are not compliant with the standards of these regulations may continue to exist subject to the following:

1. Any change of use or expansion of use shall require compliance with the new standards up to the proportion that is required by the change.
2. Any site development activity on a portion of a site shall require compliance with the new standards up to that proportion that is subject to the development activity.
3. Where any investment is greater than 50 percent of the appraised value of the site, or can reasonably be interpreted as impacting more than 50 percent of any one component of the site, the site or that component shall be brought into full compliance with these standards.

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4. To promote infill development or adaptive reuse of existing sites and buildings, administrative adjustment procedures may account for nonconforming site conditions.

1.7.5. NONCONFORMING LOTS. Any lots platted legally prior to the adoption or amendment of this Code, but which could not be platted under the current requirements of this Code, may continue to exist, provided they comply with all other applicable standards. Any difficulties meeting these standards caused by the nonconformance of the lot may be used as criteria in granting any discretionary relief to these standards. A nonconforming lot shall not be used, conveyed, transferred, subdivided, nor have its boundaries altered in any manner, except for government purpose, that would compound or further increase the nonconforming characteristics of the lot. Such nonconforming lots may be combined, per the applicable plat procedure, provided this merger does not increase the degree of any nonconformity, and any such newly combined lot that does not meet current lot standards will continue to be a legal nonconforming lot even though it was not platted legally prior to the adoption of this Code.

1.7.6. NONCONFORMING SIGNS. Existing signs which were lawful at the time, but made nonconforming by adoption or amendment to this Code, shall be legal, provided they are maintained in good condition. Nothing in this Code shall prohibit the ordinary maintenance repair of a nonconforming sign or replacement of a broken part of a nonconforming sign. Replacement of copy, content or message may be considered ordinary maintenance.

1. A legal nonconforming sign shall not be:
 - a. Changed to another type or shape of nonconforming sign;
 - b. Physically changed to expand or extend the size of the sign or to replace significant materials of the sign or sign structure;
 - c. Continued after more than six months of abandonment or vacancy of the property;
 - d. Reestablished after any removal of the sign that is not part of ordinary maintenance; or
 - e. Continued if a substantial part of the property or building is redeveloped, including more than 25 percent of the property or building by area or by value.
2. Nonconforming signs that are destroyed or damaged by 50 percent or more of their value shall not be rebuilt or repaired except in conformance with this Code.

1.7.7. BURDEN OF PROOF. The burden shall be on the applicant to establish entitlement to continuation of nonconforming situations or completion of nonconforming projects.

SECTION 1.8. 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 1.9. 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.

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SECTION 1.10. SEVERABILITY. 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 1.11. 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 1.12. EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its passage and publication according to law.

ARTICLE 2. REGULATION ADMINISTRATION

SECTION 2.1. GENERAL ADMINISTRATION

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

2.1.2. 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.

2.1.3. BUILDING PERMITS REQUIRED. All requirements of Chapter 150 of the Gering City Code shall be satisfied.

2.1.4. 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 duplicate, and in electronic form if requested by the City, 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.

2.1.5. NEW BUILDINGS ON STREETS. No building permit shall be issued for, or no building shall be erected on any lot without street access. 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 or private street designated via plat or planned development process, approved by the 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.

2.1.6. ADMINISTRATIVE SITE PLAN REVIEW

2.1.6.A. APPLICABILITY. The administrative site plan review process, conducted by the Zoning Administrator, is a way to ensure that routine development projects meet the development and design standards of these regulations, and all other standards applicable to the property. Administrative site plans are initiated by the owners or authorized agents of any property affected and reviewed by city staff. The administrative site plan review process applies to any construction that meets all requirements of the regulations without requesting any deviations.

ARTICLE 2. REGULATION ADMINISTRATION

2.1.6.B. REVIEW CRITERIA. An administrative site plan shall be reviewed according to the following criteria:

1. In general, any site plan in compliance with all requirements of this Code, or within the administrative adjustment thresholds identified in Section 2.1.7 of these regulations shall be approved.
2. In making a determination of compliance, or for site plans accompanying any discretionary review or administrative relief, the reviewer shall consider whether:
 - a. The site is capable of accommodating the buildings, proposed use, access and other site design elements required by this Code and will not negatively impact the function and design of rights-of-way or adjacent property.
 - b. The design and arrangement of buildings and open spaces is consistent with good planning, landscape design and site engineering principles and practices.
 - c. The architecture and building design uses quality materials and the style is appropriate for the context considering the proportion, massing, and scale of different elements of the building.
 - d. The overall design is compatible to the context considering the location and relationships of other buildings, open spaces, natural features or site design elements.
 - e. Whether any additional site-specific conditions are necessary to meet the intent and design objectives of any of the applicable development standards.
3. The application meets the criteria for all other reviews needed to build the project as proposed.

The Zoning Administrator may determine if any application meeting these criteria still presents significant change or potential impacts on the area, or presents substantial interpretation questions on the application of development standards, and is not eligible for the administrative site plan review process. These applications must be reviewed through the full site plan and design review process (Section 2.2.3).

2.1.6.C. EFFECT OF DECISION. Approval of an administrative site plan is required before a building permit or other applicable permits are issued.

2.1.6.D. LAPSE OF APPROVAL. An approved administrative site plan shall expire and be of no further effect if an application for a building permit for one or more buildings shown on the site plan is not filed within two years of the approval. The Zoning Administrator may grant an extension for up to one additional year. Any other element of the plan not submitted for permits within two years shall expire, unless the application proposes a different schedule that is approved.

2.1.7. ADMINISTRATIVE ADJUSTMENTS

2.1.7.A. APPLICABILITY. The administrative adjustment process is intended to provide flexibility for application of specific standards to sites where it is clear that an alternative approach with minor modifications of the standards will equally or better meet the purpose, intent or design objectives of these regulations. Specifically, it applies to:

1. Altering a building standard, such as setback, area or height by 10 percent or less of the stated standard.
2. Reducing a site design standard, such as a landscape requirement, parking quantity or location, open space requirement or dimension by less than 10 percent of the required standard.
3. Deviating from any building or site design standard, where an alternative “equal or better” standard is proposed by the applicant.
4. In any of these cases the adjustment cannot create conflicts with any other applicable standard.

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2.1.7.B. SPECIFIC PROCEDURES. Applications for administrative adjustments shall follow the same procedures required for an administrative site plan review as applicable. The Zoning Administrator is the decision authority for making administrative adjustments.

2.1.7.C. REVIEW CRITERIA. In considering an administrative adjustment, the Zoning Administrator shall find that the following criteria are met.

1. The relief requested is compatible with the surrounding area in terms of building scale, building form, and landscape and site design.
2. The relief requested supports the intent and applicability of the zoning district.
3. The relief requested is based upon sound planning and urban design principles that are consistent with the intent and objectives behind the applicable standard.
4. Compliance with the standard is not practical due to some factors specific to the site or context.
5. The relief requested is not strictly for the convenience of the applicant or a specific tenant, and is the minimum necessary to result in the best design for the site.
6. The relief requested produces no perceived impact on the adjacent property or public realm, than would otherwise occur if the standard were met.
7. The relief requested may be limited to specific conditions, or proposed alternatives that equally or better meet the intent of the applicable standard.
8. In the case of any specific standard where exceptions or alternative compliance is identified in this Code, the relief shall be limited only to the extent identified with that standard.

SECTION 2.2. PLANNING COMMISSION

2.2.1. ZONING AMENDMENTS. The City Council may from time to time, supplement change or generally revise the zoning district map boundaries and the content 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.

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 location address and/or legal description.
5. Present and proposed use of property to be rezoned.
6. Adjacent property use and zoning designation.
7. Reasons for request.
8. Applicant's signature.

2.2.1.A. 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 ordinance and official zoning map. 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.

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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 at least ten (10) days in advance in the City's official newspaper and a sign being posted on the property. 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, remailing.

2.2.1.B. AMENDMENT CONSIDERATION AND ADOPTION. The procedure for 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 (½) of all the members. Voting procedures shall follow the by-laws adopted by the Planning Commission.

2.2.1. B. i. AMENDMENTS TO TEXT. When a proposed amendment would result only in a change in the text of these regulations, the report of the Planning Commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:

1. Whether such change is consistent with the intent and purposes of these regulations; and
2. Whether the proposed amendment is made necessary because of changed or changing conditions in the zoning districts affected and, if so, the nature of such changed or changing conditions.

2.2.1.B.ii. AMENDMENTS TO CHANGE ZONING DISTRICTS. When a proposed amendment would result in a change of the zoning classification of any specific property, the report of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the commission is based. The following questions are provided as example considerations:

1. Would the change in district classification be consistent with the purposes of these regulations and the intent of the proposed district?
2. What is the character and condition of the surrounding neighborhood?
3. What are the uses of property nearby and their district classification?
4. Is the proposed amendment requested because of changed or changing conditions in the area affected and, if so, what is the change?
5. Is the subject property suitable for the uses to which it is restricted by the current district classification?
6. Is the subject property suitable for the uses that are permitted by the proposed district reclassification?
7. Would the uses permitted by the proposed district reclassification and the accompanying restrictions have a detrimental effect on nearby property?

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8. Would the proposed amendment correct an error in the application of these regulations as applied to the subject property?
9. Should the length of time the subject property has remained vacant be a factor in the consideration for reclassification?
10. Do adequate utilities and streets exist or will they be provided to serve the uses that would be permitted by the proposed district reclassification?
11. Is there a recommendation from a professional staff or consultant?
12. Would the proposed amendment be in conformance with the Comprehensive Plan?
13. Does the relative gain to the public health, safety and welfare outweigh the hardship imposed upon the applicant by not reclassifying the property?

2.2.1.C. PLANNING COMMISSION RECOMMENDATION. 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 fails 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 City Council may reach its own finding or 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.

2.2.1.D 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 recommendation of the Planning Commission shall not be affirmed except by at least three-fourths ($\frac{3}{4}$) vote of all members of the City Council.

2.2.2. CONDITIONAL USES. Because of particular factors associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are permitted as “conditional uses” when their proposed location is supplemented by additional conditions such as to make the use considered compatible with the surrounding property, the neighborhood and the zoning district.

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

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2.2.2. A. PROCESS. The Planning Commission shall have the power to decide in accordance with the provisions of these regulations conditional uses which it is specifically authorized to pass on by the terms of these regulations; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under these regulations, or to deny conditional uses when not in harmony with the purpose and intent of these regulations.

Conditional uses shall not exist as a matter of right, but only upon the issuance of the conditional use permit by the Planning Commission. The recommendation of the Planning Commission upon hearing such application need not be limited to approval or disapproval of the application as filed, but also may be subject to conditions attached by Planning Commission.

In granting a conditional use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met unless otherwise reduced by specific reference in these regulations. The requirements may be made more stringent if there are potentially injurious effects which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public. Such additional conditions may include but are not limited to requirements affecting:

1. The lot size or yard dimensions;
2. Changing street width;
3. The extent and location of entrance or exit drives;
4. Controlling the location and number of signs;
5. The period and time of operation;
6. The coverage and height of buildings;
7. Requiring screening, fencing and/or landscaping to protect the surrounding property;
8. Establishing environmental standards for air and water pollution, noise, vibration, lighting and other such conditions;
9. Additional improvements such as street construction, sidewalks, utilities and storm drainage, if necessary, including platting and/or dedications and easements.

Such conditions may be placed upon the property which is the subject of the conditional use application or upon the applicant or both. Additionally, the Planning Commission shall have the authority to limit the length of time associated with a conditional use permit. Such time periods may be temporary (a period determined through the permit process) or permanent subject to meeting all conditions and being in compliance with all applicable code requirements.

2.2.2.B. PROCEDURE. Although the official zoning map is not amended, the procedure for approval of a conditional use shall otherwise be the same as for an amendment to change zoning districts which is set forth in Section 2.2.1 of these regulations including the provisions for filing protests; provided, that any additional requirements which are further imposed upon the conditional use shall be made a part of the effectuating permit via Planning Commission action. Concurrent amendments may be processed for changing zoning classifications and approving conditional uses on the same property.

2.2.2.C. APPLICATION. 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 following information:

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1. Applicant's name, address and phone number. (Applicant must be owner or have written consent of owner to be considered.)
2. Present zoning and use of the property.
3. Property location address and/or legal description.
4. Adjacent property use and zoning designation.
5. Narrative description of the proposed conditional use functions and operations including:
 - a. Description of the use sought, both as to function and operation, and as to any structures, installations, equipment or surface improvement or change incidental to such use.
 - b. Period of time requested for the conditional use, if a temporary conditional use is requested.
 - c. Special conditions as to operation, site development, signs, and other pertinent descriptive factors.
 - d. Statement of the effect of such use with respect to adjoining property, and the zoning district in which the same is to be located.
 - e. Statement of position of the applicant as to any other matters of information, requested in writing by the city staff after review of the preliminary form which shall be helpful to the commission or the council. If the applicant does not agree with the reasonableness of any such request, he may so state and give reasons in written form.
6. A plat or site drawing showing the dimensions and location of such land, and of any structures, installations, equipment or change of surface contemplated, including all public ways, with access thereto.
7. Applicant's signature.

The application shall be filed with the Zoning Administrator at least thirty (30) 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.

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, at least ten (10) days in advance in the City's official newspaper and a sign being posted on the property, 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.

2.2.2.D. FINDINGS. Before any conditional use permit shall be issued, the Planning Commission shall make findings via resolution certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following where applicable:

1. Ingress and egress to 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.
2. Off-street parking and loading areas where required, with particular attention to the noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district.
3. Refuse and service areas.
4. Utilities, with reference to locations, availability, and incompatibility.
5. Screening and buffering with reference to type, dimensions, and character.
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
7. Required yards and other open spaces.
8. General compatibility with adjacent properties and other property in the district.

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Both temporary and permanent conditional uses shall be in compliance with these criteria and these standards shall be maintained in consideration of the existing state of development of the district in which located. In the case of conditional uses granted for the indefinite term, the relation to the reasonably foreseeable future for the entire term of such conditional use and completed development of the district shall be considered.

2.2.2.E. VIOLATION OR NONCOMPLIANCE. Violation of or noncompliance with any of the stated conditions of such conditional use permit during the term thereof shall be subject to revocation action by the Planning Commission. After notice to the owner and occupant of the land which is the subject of the use, and to the general public, by public notice, the Planning Commission shall conduct a public hearing to determine if revocation shall occur. Upon such revocation, such conditional use shall thereafter be void and of no effect.

Such conditional use shall not constitute a defense to any lawful action for civil or private rights on account of any such use.

If such conditional use shall be for a limited or stated term of use, the same may be extended by action of the Planning Commission for a term not to exceed the original term after a public hearing and upon notice of such hearing, upon application. For such extension, consideration by and public hearing before the Planning Commission is required.

2.2.2.F. ASSIGNMENT OF CONDITIONAL USE PERMIT. Every individual, partnership, association, or corporation holding a conditional use permit hereunder shall give notice in writing to the Zoning Administrator within seventy-two (72) hours after having sold, transferred, given away or otherwise disposed of interest in or control of a project, the subject of such permit. Such notice shall include the name and address of the successor in interest to the ownership or control of such project, the name and address of the manager of the new permit holder, and the name and address of the registered agent if the permit holder is a corporation. A conditional use permit may be reassigned to a new individual, partnership, association, or corporation only with the consent of the Zoning Administrator and/or Planning Commission, with such consent given after due consideration by the Zoning Administrator and/or Planning Commission to the qualifications of the assigned. Such consent shall not be unreasonably withheld. Enforcement of a security interest in the property covered by a conditional use by the holder of such security interest shall not be considered an assignment of such conditional use.

2.2.2.G. CONSTRUCTION PLANS. All plans for construction of or alteration of any structure shall be submitted to the Zoning Administrator for review. Such plan review shall be for the purpose of determining compliance with the conditions, stipulations and requirements of the Planning Commission. Should the plan not include all such conditions, stipulations and requirements, the City Administrator or his/her designee shall not authorize the issuance of a building permit.

2.2.2.H. TIME LIMIT AND EXPIRATION OF CONDITIONAL USE PERMITS. The Planning Commission will determine a time period for a Conditional Use Permit as part of the approval process. Such permits shall apply to the land and assigned to the owner / operator of the use to which the permit was issued. If there is a change to the use, property, operation or owner / operator to which the permit was issued the permit shall be subject to renewal and be reviewed by the Planning Commission to determine if such conditional use should be allowed to continue.

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Within one (1) year of the approval, 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 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 Planning Commission's determination shall be forwarded to the applicant.

After expiration, a new application is required if the project has not started and progressed according to the provisions outlined in this Ordinance.

All conditional use permits are subject to meeting any and all conditions attached to the permit via Planning Commission-approval and all applicable municipal, state and federal regulations. Failure to comply with such conditions or regulations, as well as the creation of a nuisance impacting surrounding properties shall be grounds for the Planning Commission to consider revocation of such permit.

2.2.3. SITE PLAN AND DESIGN REVIEW

2.2.3.A. APPLICABILITY. The site plan and design review process is a way to coordinate development projects within the public realm and with adjacent sites, and specifically to demonstrate how new projects meet the development and design standards of this Code for compatible arrangement of buildings, pedestrian and vehicle access, lighting and landscaping. Site plans are initiated by the owners or authorized agents of any property affected. In addition to the general requirements of these regulations the following requirements are specific to site plan and design review applications. The site plan and design review process specifically applies to projects that meet the following:

1. Any new building that does not qualify for Administrative Site Plan Review as determined by the Zoning Administrator and Section 2.1.6 of these regulations.
2. Any expansion to an existing building footprint by more than 15 percent, except detached houses and duplexes.
3. Any site development activity which expands the impervious surface by more than 25 percent of existing impervious surface on the lot.
4. Any changes to the site access and circulation which present a significant change impacting the design of the public realm or traffic conditions near the site.

2.2.3.B. REVIEW CRITERIA AND PROCESS. A site plan and design review shall be reviewed by the Planning Commission according to the following criteria:

1. In general, any site plan in compliance with all requirements of this Code shall be approved.
2. In making a determination of compliance, or for site plans accompanying any discretionary review or administrative relief, the review body shall consider whether:
 - a. The site is capable of accommodating the buildings, proposed use, access and other site design elements required by these regulations and will not negatively impact the function and design of rights-of-way or adjacent property.
 - b. The design and arrangement of buildings and open spaces is consistent with good planning, landscape design and site engineering principles and practices.
 - c. The architecture and building design uses quality materials and the style is appropriate for the context considering the proportion, massing, and scale of different elements of the building.

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- d. The overall design is compatible to the context considering the location and relationships of other buildings, open spaces, natural features or site design elements.
- e. Whether any additional site-specific conditions are necessary to meet the intent and design objectives of any of the applicable development standards.
3. The application meets the criteria for all other reviews needed to build the project as proposed.
4. The recommendations of professional staff.

The Planning Commission shall conduct a public hearing as part of this process. Such hearing shall be noticed and conducted in the same manner as that of a rezoning application.

2.2.3.C. ADJUSTMENTS ALLOWED. As part of the site plan and design review process, and in consideration of meeting the review criteria in Section 2.2.3.B., the Planning Commission may grant adjustments related to and limited by the following:

1. Altering a building standard, such as setback, area or height by 20 percent or less of the stated standard.
2. Reducing a site design standard, such as a landscape requirement, parking quantity or location, open space requirement or dimension by 25 percent or less of the required standard.
3. Deviating from any building or site design standard, where an alternative “equal or better” standard is proposed by the applicant.
4. In any of these cases the adjustment cannot create conflicts with any other applicable standard.

2.2.3.C. EFFECT OF DECISION. Approval of a site plan and design review shall authorize the applicant to apply for a building permit and other applicable permits. The Zoning Administrator may approve minor amendments to approved site plans and design reviews without the refile of a new application, but in no event shall the Zoning Administrator approve any change that does not qualify for an administrative site plan, or any change that is different from any condition of approval of the site plan and design review.

2.2.3.D. LAPSE OF APPROVAL. An approved site plan and design review shall expire and be of no further effect if an application for a building permit for one or more buildings shown on the site plan is not filed within two years of the approval. The Planning Commission may grant an extension for up to one additional year. Any other element of the plan not submitted for permits within two years shall expire, unless the application proposes a different schedule that is approved.

2.2.4. DEVELOPMENT PLAN REVIEW

2.2.4.A. GENERAL PROVISIONS FOR DEVELOPMENT PLAN REVIEW. Any land use / development application that requests exceptions or deviations beyond those accommodated via Section 2.1.6. Administrative Site Plan Review or Section 2.2.3 Site Plan and Design Review; is considered a planned development type per Section 5.7; or that is a mixed-use development of any type is subject to development plan review and approval per the provisions of this section of these regulations. Additionally, any approved plan shall be noted on the official zoning map with a P designation and a case locator number within the identified geographic boundaries of the plan area.

2.2.4.B. DESIGN CONSIDERATIONS AND STANDARDS. Each plan shall include due consideration and incorporation of desirable existing conditions and features, as well as incorporate the best practices of the associated design profession(s) (architecture, engineering, landscape architecture, urban planning and design).

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Submitted concepts and plans shall address the following in respect to architectural and site design as proposed for the site:

1. Relationship of proposed development to existing site features, as well as surrounding features – woodland, water, topographic, geologic, historic, etc. Existing natural or cultural features shall be incorporated into the proposed plan whenever possible, or remediation plans for the loss of such features shall also be provided. Impacts related to storm water drainage, visual change and habitat, as well as other considerations may be of influence.
2. Consideration of surrounding context - uses, building materials, styles and size, etc. Functional and design compatibility or differentiation with the surrounding built environment (use, buildings, circulation, etc.) must be demonstrated or justified, while using the highest quality materials and best practice methods.
3. Incorporation of architectural elements and / or design features of all structures. Such elements and features should create both visual / structural variety in form and scale, yet retain uniformity among structures in the same development and be harmonious with or of a higher level than structures on adjacent parcels or tracts.
4. Incorporation of landscape and hardscape features. Such features shall be complementary to the structure(s) and the development in its entirety considering both views from and views of the development, screening of various utilities, mechanical equipment, other functional elements (trash receptacles, shipping docks, etc.), highlighting and enhancement of entry areas and public spaces, addressing storm water drainage short and long term establishment and maintenance, as well as variety of form, material and size.
5. Integration of circulation methods and elements as a functional network with minimal conflicts. Circulation and access shall address a variety of methods (pedestrian, bicycle, and vehicular) including patterns, volumes and routes on site for service, emergency and routine daily use, as well as connections to the existing / planned adjacent system(s).

2.2.4.C. PLAN CONTENTS. The plan shall contain, at minimum the information as is required by city codes and ordinances, in addition to meeting the content, filing, and submission requirements of this Article.

1. Preliminary development plan. Every request for exceptions or deviations beyond those accommodated via Section 2.1.6. Administrative Site Plan Review or Section 2.2.3 Site Plan and Design Review; is considered a planned development type per Section 5.7; or that is a mixed-use development of any type shall include a preliminary plan. Such plan shall depict or reflect the following:
 - a. Existing topography at 5-foot contour intervals, and proposed topography at 2-foot contour intervals.
 - b. Proposed location, height, and arrangement of buildings, including pad sites, parking areas, existing and proposed streets or internal circulation systems, open spaces, landscaped areas, storm water detention/retention area, and drainage easements.
 - c. Identification of phases of development, interim phases time frame in improvements.
 - d. Identification on the site plan of the name, address, and telephone number of the property owner, the developer, and the person preparing the plan.
 - e. A project schedule that shall include a tabulation of square footage of development, floor area ratios, types of uses, parking spaces, impervious materials coverage, residential development density, and/or land area of each proposed usage as a percentage of the total site.
 - f. Preliminary sketches, showing the general style, size and exterior construction material of any and all proposed buildings; in the event of several building types, a separate sketch shall be prepared for each type.

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- g. Preliminary sketches related to proposed location and size of signage on buildings and the site.
 - h. The relationship of the site to surrounding uses, buildings, zoning districts, existing and proposed (approved but not built) developments and structures and streets and driveways within two-hundred (200) feet of the exterior boundaries of the property.
 - i. A Traffic Impact Analysis may be required if recommended by the city staff.
 - j. A Parking Analysis shall be performed to demonstrate the adequacy of off-street parking that must meet applicable design or zoning code requirements in all phases of the development.
 - k. A list of proposed plan deviations and exceptions from the standards and requirements of the zoning code and this article. Such list shall identify the desired deviation / exception and the reason for the requested deviation / exception.
 - l. Such additional materials as may be required from time to time by city staff, the Planning Commission, or the City Council.
2. Final Development Plan. Upon review and approval of a preliminary development plan, the developer shall then submit a final development plan, which shall reflect or depict changes made as a result of conditions resulting from preliminary development plan approval, as well as the following:
- a. Finished grades or contours for the entire site (five- or two-foot contour intervals may be required depending upon the site).
 - b. All adjacent public street rights-of-way, existing and proposed, within the centerline location thereof.
 - c. The location, width, curb cuts and radii of all public streets and private drives, existing and proposed.
 - d. The location, width, and limits of all existing and proposed sidewalks.
 - e. The location, size, and radii of all existing and proposed median breaks and turning lanes.
 - f. The distance between all buildings, between buildings and property lines, and between all parking areas and property lines.
 - g. The location of all required building and parking setbacks.
 - h. The location, dimensions, number of stories, and area in square feet of proposed buildings.
 - i. The area of land included on the site plan, in square feet or acres.
 - j. The limits, location, size, and material to be used in all proposed retaining walls.
 - k. The location and dimensions of all driveways, parking lots, parking stalls, aisles, loading and service areas and docks.
 - l. The location, height, candle power, and type of outside lighting fixtures for buildings and parking lots.
 - m. The location, size, type of material, and message of all proposed monuments or detached signage.
 - n. Pertinent peripheral information, including adjacent developments, alignment and location of public and private driveways and streets, medians, and public and semi-public easements.
 - o. Preliminary drainage design, and location of existing drainage facilities.
 - p. Elevations of all sides of proposed buildings, including notations indicating the building materials to be used on exterior walls and roofs thereof.
 - q. The location, size and materials to be used in all screening of rooftop mechanical equipment.
 - r. A landscaping plan or depiction that shows the size, species, location and number of all proposed landscaping material; notations depicting all areas to be seeded or sodded; and the location, size, and materials to be used for all landscaping, and screening, as well as irrigation plans for such materials.

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- s. A list of proposed plan deviations and exceptions from the standards and requirements of the zoning code and this article. Such list shall identify the desired deviation / exception and the reason for the requested deviation / exception.

2.2.4.F. DEVELOPMENT PLAN REVIEW PROCEDURE. Each proposed development plan shall be subject to the review and approval process. The intent of development plan review is to provide for adequate review and consideration of the potential effects of the proposed development upon surrounding uses and activities, and to require and maintain a high standard of site planning and building design. The approval process shall consist of a coordinated meeting and review of applications and plans by the city staff, and public hearings by the Planning Commission and the City Council. The City Council shall have final authority to approve or disapprove a proposed plan for development.

The City Engineer or his / her designee shall be responsible for coordinating review and analysis of each preliminary and/or final development plan application by City Staff. The results of this review shall be compiled and reported to the Planning Commission for review and consideration. Additionally, the Planning Commission shall hold a Public Hearing as part of its consideration of the preliminary development plan submission following the public notification procedures utilized for zoning amendment / rezoning requests in Section 2.2.1. No public hearing is required for the final development plan unless deviations from the approved preliminary development plan are being requested (see Section 2.2.4.G.). Following the Planning Commission's review and recommendations regarding both preliminary and final development plans, the City Council shall review such plan applications. The City Council may approve, disapprove, or conditionally approve the preliminary development plan and/or final development plan application. The general focus of the development plan review process is:

1. The demonstration that the proposed development is consistent with the zoning district and that the overall plan meets or exceeds the design principles and objectives of all applicable zoning regulations and review criteria.
2. The demonstration of the compatibility of the proposed development with existing or permitted uses on abutting or adjoin sites or properties, in respect to building height, building materials, bulk and scale, setbacks and open spaces, landscaping and site development, and access and circulation features.
3. The demonstration of safety and convenience of vehicular and pedestrian circulation in the vicinity, including accommodation of fire and safety vehicles, traffic reasonably expected to be generated by the proposed uses and other uses reasonably anticipated in the area, considering existing zoning and land uses in the area.

2.2.4.G. FINAL DEVELOPMENT PLAN - CERTAIN DEVIATIONS FROM PRELIMINARY DEVELOPMENT PLAN – PUBLIC NOTIFICATION PROCEDURES. When a final development plan deviates from an approved preliminary development plan the City Administrator and/or his / her designee shall notify the applicant of the need to initiate a public notification procedure and public hearing at the Planning Commission. At the expense of the applicant, if certain deviations from an approved preliminary development plan are presented in the final development plan application a revised preliminary plan will be submitted and reviewed by the Planning Commission. Such deviations include:

1. Increase density or intensity of residential uses by more than five percent (5%).
2. Increase the floor area of nonresidential building by more than ten percent (10%).
3. Increase by more than five percent (5%) the ground covered by buildings.

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4. Increase the number of stories of a building.
5. Involve changes that will result in a different development concept, create less architectural harmony or quality, or impose greater loads upon streets and neighborhood facilities.

2.2.4.H. CONDITIONS AND RESTRICTIONS. In approving preliminary development plan applications, the City Council, upon the recommendation of the Planning Commission, may vary the standards set forth in the Zoning Ordinance, provided that the overall plan demonstrates site and architectural design that meets or exceeds the intent, principles and objectives of all zoning regulations.

The City Council shall use the requirements and standards set forth in the zoning regulations as a guide, and may permit adjustments of those requirements and standards in the interest of efficient land development and utilization, if it is deemed that other amenities or conditions thus gained will result in a development of equal or higher quality than would be accommodated by the applicable zoning district and supplementary regulations.

In its review and approval of preliminary and final site plan applications, the City Council may increase the minimum requirements designated in the applicable sections of the zoning code based upon its review of the topography of the individual site, the orientation of buildings in relationship to street rights-of-way and adjoining properties, the building materials used, and the mass and height of buildings. A purpose of such increases in minimum requirements shall be to minimize any adverse impacts of the proposed development on adjoining or nearby properties and the general community.

If the City Council imposes conditions or restrictions upon a preliminary development plan, it shall designate specific requirements that must be met before an applicant may submit a final site plan application. If the City Council imposes conditions or restrictions upon a final development plan, it shall designate specific requirements that must be met before issuance of a building permit. The City Council may delegate to the City Administrator or his / her designee the authority to determine if specifically prescribed conditions have been satisfied by an applicant.

2.2.4.I. PERIOD OF VALIDITY OF PRELIMINARY DEVELOPMENT PLAN APPROVAL. If a preliminary development plan is approved by the City Council, the approval shall not be valid for a period longer than twenty-four (24) months from the date of its approval, unless within such period a final development plan application is submitted. The City Council shall be authorized to impose new conditions or restrictions upon an approval of the resubmission, or to disapprove the resubmission.

2.2.4.J. PERIOD OF VALIDITY OF FINAL DEVELOPMENT PLAN APPROVAL. If a final development plan is approved by the City Council, the approval shall not be valid for a period longer than twelve months (12) from the date it is approved, unless within such a period a building permit is obtained and substantial construction is commenced. The City Council may grant one extension, not to exceed twelve (12) months, upon written request of the original applicant, and resubmission of the application, provided that the application as resubmitted is substantially the same as the application originally approved; however, the City Council shall be authorized to impose new conditions upon an approval of the resubmission, or to disapprove the resubmission.

SECTION 2.3 BOARD OF ZONING ADJUSTMENT

2.3.1 CREATION, TERMS, MEETINGS, RULES. All requirements of Sections 2-3-1 through 2-3-5 of the Gering Code shall be satisfied.

ARTICLE 2. REGULATION ADMINISTRATION

2.3.2 DUTIES OF ZONING ADMINISTRATOR, CITY BOARD OF ZONING ADJUSTMENT, AND COURTS ON INTERPRETATION / ENFORCEMENT 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.

The formal process for matters of interpretation and enforcement shall follow those outlined in Sections 2.3.3. and Sections 2.3.5. of these regulations. A written application with supporting narrative and other materials explaining the interpretation / enforcement question shall be provided by the party challenging the ruling of the Zoning Administrator. Additionally, the Zoning Administrator shall provide supporting narrative / materials as to such staff interpretation. The Board of Zoning Adjustment shall consider the question as part of a public hearing on the matter and make a determination. As a result of the determination clarifying language may be incorporated into the zoning regulations at a later date.

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.

2.3.3. 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:

1. 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; and,
2. 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; and,
3. that the special conditions and circumstances do not result from the actions of the applicant; and,
4. 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 thirty (30) days prior to the Board of Adjustment meeting.

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.

2.3.4. 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.

ARTICLE 2. REGULATION ADMINISTRATION

2.3.5. PUBLIC HEARING AND FINDINGS OF THE BOARD. Notice of public hearing shall be given as in Section 2.2.1.A. above. Any party may appear in person or by agent or by attorney. The City Board of Zoning Adjustment shall make findings that all requirements of this Article 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.

2.3.6. 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 1.8 of this Ordinance.

2.3.7 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 3. ZONING DISTRICTS

SECTION 3.1 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:

AG	Agricultural District
RR	Rural Residential District
RL	Residential Low-Density District
RM	Residential Medium-Density District
GCE	Golf Course Estates District
RH	Residential High-Density District
C-1	Neighborhood Commercial District
C-2	Central Business District
C-3	General Commercial District
ML	Light Industrial District
MH	Heavy Industrial District

SECTION 3.2 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 3.2 of Ordinance No. ___ of the City of Gering, Nebraska, passed this __ day of _____, 20__."

SECTION 3.3 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 3.4 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.

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Each of the new Official Zoning Map(s) shall be identified by the signature of the Planning Commission Chair and 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 3.5 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 a variance, 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 3.6 EXTRA TERRITORIAL JURISDICTION / ANNEXATION RULE. All territory which may hereafter be regulated by this Ordinance because of its location within the Extra Territorial Jurisdiction area of the City of Gering or annexation of the City of Gering shall retain the zoning district classification assigned to the territory prior to annexation. Any territory that is within the Extra Territorial Jurisdiction of the City or annexed into the City of Gering that is unzoned at the time of annexation is considered to be zoned AG Agricultural District until otherwise classified by amendment in accordance with the provisions of this Ordinance.

SECTION 3.7 AGRICULTURAL DISTRICT. The purpose and objective of the Agricultural District and the Agricultural Estate Dwelling Site (AEDS) designation is to preserve land best suited for

ARTICLE 3. ZONING DISTRICTS

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.

3.7.1. AG AGRICULTURAL DISTRICT

3.7.1.A. INTENT. This district is intended primarily for application to those rural areas of the City's Extraterritorial Zoning Jurisdiction or undeveloped portions of the City where it is necessary and desirable to reserve for exclusive agricultural use appropriately located areas suitable for the raising of crops or livestock because of high quality soils, scenic characteristics, existing or potential irrigation or exclusive agricultural character of the area.

3.7.1.B. PERMITTED PRINCIPAL USES. Permitted principal uses are listed in the land use schedule in Section 3.11.

3.7.1.C. PERMITTED ACCESSORY USES. Accessory uses and structures normally appurtenant to the permitted principal uses and permitted conditional uses shall be permitted subject to the parameters of this Ordinance and other applicable regulations and conditions.

3.7.1.D. CONDITIONAL USES. Conditional uses are listed in the land use schedule in Section 3.11. After the provisions of the regulations relating to the conditional use permit process and applicable supplementary district regulations have been fulfilled the City Council may permit conditional uses identified in the land use schedule with or without additional conditions attached to the permit.

3.7.1.E. PROHIBITED USES. All other uses which are not specifically permitted or not permissible as conditional uses shall be prohibited, unless determined to be a permitted principal, accessory or conditional use via a documented comparative interpretation by the Zoning Administrator or the Board of Zoning Adjustment. Such permitted principal, accessory or conditional use allowed by documented interpretative comparison will be incorporated into the land use schedule accordingly through periodic amendment of these regulations.

3.7.1.F. MINIMUM LOT REQUIREMENTS.

1. LOT AREA: The minimum lot area shall be twenty-five (25) acres;
2. LOT WIDTH: The minimum lot width at the front building line shall be three hundred (300) feet.

3.7.1.G. MINIMUM YARD SETBACK AND SEPARATION REQUIREMENTS.

1. FRONT YARD: Fifty (50) feet.
2. REAR YARD: Fifty (50) feet.
3. SIDE YARD: Fifteen (15) feet.
4. SEPARATION: The minimum distance between structures used for human habitation shall be ninety (90) feet. The minimum distance between structure used for human habitation and barns / stables or other structures used for agricultural purposes shall be one hundred (100) feet.
5. ACCESSORY STRUCTURE LOCATION: The placement of accessory structures is further regulated by Section 5.1.1. of the zoning regulations.

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3.7.1.H. MAXIMUM LOT COVERAGE. No limitations.

3.7.1.I. MAXIMUM HEIGHT. No limitations.

3.7.2. AGRICULTURAL ESTATE DWELLING SITE DESIGNATION (AEDS).

3.7.2.A. 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. The AEDS designation is not a zoning district but is a specific designation which may be placed upon certain property that guides the subdivision of such property within the AG Agricultural District.

3.7.2.B. 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").

3.7.2.C. 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 residences including mobile home for farm residence or adjacent to farm residence for relatives of consanguinity and marriage or farm workers). This reservation shall be required (reserved), for as long as the reserved land is zoned AG 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.

3.7.2.D. MINIMUM LOT REQUIREMENTS.

1. FRONTAGE: 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. AREA: Each AEDS shall be a minimum of 2 acres, and a maximum of 25 acres.

3.7.2.E. MINIMUM YARD SETBACK AND SEPARATION REQUIREMENTS.

The provisions of minimum yard requirements, minimum separation requirements as provided for in the AG Agricultural District (Section 3.1.7.G.) shall be applicable to an AEDS.

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3.7.2.F. 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 of the Subdivisions Regulations of the City of Gering, Nebraska.
2. In reviewing an application for an AEDS, the Zoning Administrator 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 Administrator, for future reference. Applications where it is found that easements and/or right-of-way is necessary will require Planning Commission and the City Council review and approval.
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 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. The procedure for revocation of the AEDS shall be the same as that of a zoning amendment as outlined in Section 2.2.1. with a certificate of revocation being filed on the real estate records of the County of Scotts Bluff, Nebraska.

SECTION 3.8 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 that incompatible uses of the land will not encroach upon the residential areas.

3.8.1. RR RURAL RESIDENTIAL DISTRICT

3.8.1.A. INTENT. The district is intended primarily to allow for the 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.

3.8.1.B. PERMITTED PRINCIPAL USES. Permitted principal uses are listed in the land use schedule in Section 3.11.

3.8.1.C. PERMITTED ACCESSORY USES. Accessory uses normally appurtenant to the permitted principal uses and permitted conditional uses shall be permitted subject to the parameters of this Ordinance and other applicable regulations and conditions.

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3.8.1.D. **CONDITIONAL USES.** Conditional uses are listed in the land use schedule in Section 3.11. After the provisions of the regulations relating to the conditional use permit process and applicable supplementary district regulations have been fulfilled the City Council may permit conditional uses identified in the land use schedule with or without additional conditions attached to the permit.

3.8.1.E. **PROHIBITED USES.** All other uses which are not specifically permitted or not permissible as conditional uses shall be prohibited unless determined to be a permitted principal, accessory or conditional use via a documented comparative interpretation by the Zoning Administrator or the Board of Zoning Adjustment. Such permitted principal, accessory or conditional use allowed by documented interpretative comparison will be incorporated into the land use schedule accordingly through periodic amendment of these regulations.

3.8.1.F. MINIMUM LOT REQUIREMENTS.

1. **LOT AREA:** The minimum lot area is three (3) acres.
2. **LOT WIDTH:** The minimum width is one hundred (100) feet. Except when a lot fronts on a cul-de-sac or loop street where there are curbs and gutters, then the minimum lot width shall be eighty (80) feet.
3. **LOT DEPTH:** Each lot shall have a depth of not less than one hundred fifty (150) feet.

3.8.1.G. MINIMUM YARD SETBACK REQUIREMENTS.

1. **FRONT YARD:** Fifty (50) feet.
2. **REAR YARD:** 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:** 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.
4. **ACCESSORY STRUCTURE LOCATION:** The placement of accessory structures is further regulated by Section 5.1.1. of the zoning regulations.

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

3.8.1.I. **MAXIMUM HEIGHT.** The height of all structures shall not exceed thirty-five (35) feet.

3.8.2. RL RESIDENTIAL LOW-DENSITY DISTRICT

3.8.2.A. **INTENT.** This district is intended primarily to provide living areas within the City where development is limited to low density concentrations of single-family dwellings and 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 single-family residential uses in accord with the comprehensive plan.

3.8.2.B. **PERMITTED PRINCIPAL USES.** Permitted principal uses are listed in the land use schedule in Section 3.11.

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3.8.2.C. PERMITTED ACCESSORY USES. Accessory uses and structures normally appurtenant to the permitted principal uses and permitted conditional uses shall be permitted subject to the parameters of this Ordinance and other applicable regulations and conditions.

3.8.2.D. CONDITIONAL USES. Conditional uses are listed in the land use schedule in Section 3.11. After the provisions of the regulations relating to the conditional use permit process and applicable supplementary district regulations have been fulfilled the City Council may permit conditional uses identified in the land use schedule with or without additional conditions attached to the permit.

3.8.2.E. PROHIBITED USES. All other uses which are not specifically permitted or not permissible as conditional uses shall be prohibited unless determined to be a permitted principal, accessory or conditional use via a documented comparative interpretation by the Zoning Administrator or the Board of Zoning Adjustment. Such permitted principal, accessory or conditional use allowed by documented interpretative comparison will be incorporated into the land use schedule accordingly through periodic amendment of these regulations.

3.8.2.F. MINIMUM LOT REQUIREMENTS.

1. LOT AREA: The minimum lot area is eight thousand (8,000) square feet;
2. LOT WIDTH: The minimum lot width is eighty (80) feet. Except when a lot fronts on a cul-de-sac or loop street the minimum lot width shall be fifty (50) feet.
3. LOT DEPTH: Each lot shall have a minimum lot depth of one hundred (100) feet.

3.8.2.G. MINIMUM YARD SETBACK REQUIREMENTS.

1. FRONT YARD: Twenty-five (25) feet.
2. REAR YARD: 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 Article 5 of this Ordinance.
3. SIDE YARD: 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 Article 5 of this Ordinance.
4. ACCESSORY STRUCTURE LOCATION: The placement of accessory structures is further regulated by Section 5.1.1. of the zoning regulations.

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

3.8.2.I MAXIMUM HEIGHT. The height of all principal structures shall not exceed thirty-five (35) feet. The maximum height of all accessory structures shall not exceed eighteen (18) feet.

3.8.3. RM RESIDENTIAL MEDIUM-DENSITY DISTRICT

3.8.3.A. INTENT. This district is intended primarily to provide living areas within the City where development is limited to low to medium density concentrations of single-family dwellings and multiple-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

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of utilities and public facilities designed to service only one-family residential uses in accord with standards of the comprehensive plan.

3.8.3.B. PERMITTED PRINCIPAL USES. Permitted principal uses are listed in the land use schedule in Section 3.11.

3.8.3.C. PERMITTED ACCESSORY USES. Accessory uses and structures normally appurtenant to the permitted principal uses and permitted conditional uses shall be permitted subject to the parameters of this Ordinance and other applicable regulations and conditions.

3.8.3.D. CONDITIONAL USES. Conditional uses are listed in the land use schedule in Section 3.11. After the provisions of the regulations relating to the conditional use permit process and applicable supplementary district regulations have been fulfilled the City Council may permit conditional uses identified in the land use schedule with or without additional conditions attached to the permit.

3.8.3.E. PROHIBITED USES. All other uses which are not specifically permitted or not permissible as conditional uses shall be prohibited unless determined to be a permitted principal, accessory or conditional use via a documented comparative interpretation by the Zoning Administrator or the Board of Zoning Adjustment. Such permitted principal, accessory or conditional use allowed by documented interpretative comparison will be incorporated into the land use schedule accordingly through periodic amendment of these regulations.

3.8.3.F. MINIMUM LOT REQUIREMENTS.

1. LOT AREA: The minimum lot area for single-family dwellings shall be six thousand (6,000) square feet; the minimum lot area for two family dwellings shall be ten thousand (10,000) square feet and the minimum lot area per dwelling unit for 3 to 6 unit multifamily dwellings shall be four thousand (4,000) square feet per dwelling unit.
2. LOT WIDTH: The minimum width is sixty (60) feet. Except when a lot fronts on a cul-de-sac or loop street the minimum lot width shall be forty (40) feet.
3. LOT DEPTH: Each lot shall have a depth of not less than eighty (80) feet.

3.8.3.G. MINIMUM YARD SETBACK REQUIREMENTS.

1. FRONT YARD: Twenty-five (25) feet.
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 and does not exceed one story. 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. If the principal structure is more than one story the rear yard 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 Article 5 of this Ordinance.
3. SIDE YARDS: The minimum interior side yard setback for the one -story principal structure shall be five (5) feet from the property line. The side yards shall be increased by five (5) feet for each additional one-half story or ten (10) feet for each additional story. 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. 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

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(15) feet from the property line where the garage opening is perpendicular to the property line requiring a curved driveway approach. Accessory structures shall be subject to the provisions of Article 5 of this Ordinance.

4. **ACCESSORY STRUCTURE LOCATION:** The placement of accessory structures is further regulated by Section 5.1.1. of the zoning regulations.

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

3.8.3.I. MAXIMUM HEIGHT. The height of all principal structures shall not exceed thirty-five (35) feet. The maximum height of all accessory structures shall not exceed eighteen (18) feet.

3.8.4. RH RESIDENTIAL HIGH-DENSITY DISTRICT

3.8.4.A. INTENT. This district is intended primarily to provide living areas within the City where development is limited to high 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.

3.8.4.B. PERMITTED PRINCIPAL USES. Permitted principal uses are listed in the land use schedule in Section 3.11.

3.8.4.C. PERMITTED ACCESSORY USES. Accessory uses and structures normally appurtenant to the permitted principal uses and permitted conditional uses shall be permitted subject to the parameters of this Ordinance and other applicable regulations and conditions.

3.8.4.D. CONDITIONAL USES. Conditional uses are listed in the land use schedule in Section 3.11. After the provisions of the regulations relating to the conditional use permit process and applicable supplementary district regulations have been fulfilled the City Council may permit conditional uses identified in the land use schedule with or without additional conditions attached to the permit.

3.8.4.E. PROHIBITED USES. All other uses which are not specifically permitted or not permissible as conditional uses shall be prohibited unless determined to be a permitted principal, accessory or conditional use via a documented comparative interpretation by the Zoning Administrator or the Board of Zoning Adjustment. Such permitted principal, accessory or conditional use allowed by documented interpretative comparison will be incorporated into the land use schedule accordingly through periodic amendment of these regulations.

3.8.4.F MINIMUM LOT REQUIREMENTS.

1. **LOT AREA:** The minimum lot area for single-family dwellings shall be four thousand (4,000) square feet; 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

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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.

2. LOT WIDTH: The minimum width of each lot shall be fifty (50) feet. 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. LOT DEPTH: Each lot shall have a depth of not less than eighty (80) feet.

3.8.4.G. MINIMUM YARD SETBACK REQUIREMENTS.

1. FRONT YARD: Fifteen (15) feet.
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 Article 5 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. ACCESSORY STRUCTURE LOCATION: The placement of accessory structures is further regulated by Section 5.1.1 of the zoning regulations.

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

3.8.4.I. 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 a conditional use and its accessory structures shall be seventy (70) feet.

3.8.5. GOLF COURSE ESTATE DESIGNATION (GCE)

3.8.5.A. INTENT: This designation applies to specific developments that existed and are reflected on the official zoning map prior to the adoption date of these regulations. No future development of this type will receive this designation. Future development of this type will be considered a form of planned development and addressed via Section 2.2.4 Development Plan Review. For existing development with this designation the intent of the prior zoning district was to establish a residential zone which allows 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.

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3.8.5.B. PERMITTED PRINCIPAL USES: Within developments with this designation 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.

3.8.5.C. CONDITIONAL USES: The following shall be permitted upon satisfying reasonable conditions as imposed through the process outlined in Section 2.2.2 of these regulations.

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

3.8.5.D. 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.

3.8.5.E. 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.

3.8.5.F. MINIMUM YARD REQUIREMENTS:

1. PRINCIPAL STRUCTURES:
 - a. Front yard: The minimum front yard setback is twenty-five (25) feet from the front lot line.
 - b. Side yards, interior lot: The minimum side yard setback is eight (8) feet from the property line.
 - c. Rear yard, interior lot: The minimum rear yard setback is twenty-five (25) feet from the rear property line.
 - d. 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.
 - e. 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.
2. ACCESSORY STRUCTURES:
 - a. 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.
 - b. No buildings shall be allowed in the required front yard or side yard facing a street.

3.8.5.G. MAXIMUM LOT COVERAGE: The maximum lot coverage (principal structures or dwelling and all accessory buildings) shall be forty (40) percent.

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3.8.5.H. 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.

3.8.5.I. 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.

SECTION 3.9 COMMERCIAL DISTRICTS. The several classes of 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.

3.9.1 C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

3.9.1.A. INTENT. The C-1 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.

3.9.1.B. PERMITTED PRINCIPAL USES. Permitted principal uses are listed in the land use schedule in Section 3.11.

3.9.1.C. PERMITTED ACCESSORY USES. Accessory uses and structures normally appurtenant to the permitted principal uses and permitted conditional uses shall be permitted subject to the parameters of this Ordinance and other applicable regulations and conditions.

3.9.1.D. CONDITIONAL USES. Conditional uses are listed in the land use schedule in Section 3.11. After the provisions of the regulations relating to the conditional use permit process and applicable supplementary district regulations have been fulfilled the City Council may permit conditional uses identified in the land use schedule with or without additional conditions attached to the permit.

3.9.1.E. PERFORMANCE STANDARDS. These regulations shall apply as minimum requirements for all non-residential uses in the C-1 Neighborhood Commercial District.

1. Where a site adjoins or is located across an alley from any R Residential district or residential use, 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. No outdoor or open storage of material is allowed. Accessory uses such as outdoor eating areas / retail sales displays are allowed but cannot interfere with safe pedestrian and vehicular movement. Outdoor entertainment uses may be allowed through the issuance of a special event permit or Conditional Use Permit.
3. Not less than five (5) feet of a required yard adjoining a street shall be landscaped and permanently maintained.
4. No use shall be permitted and no process, equipment or materials shall be used which are found 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.

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3.9.1.F. **PROHIBITED USES.** All other uses which are not specifically permitted or not permissible as conditional uses shall be prohibited unless determined to be a permitted principal, accessory or conditional use via a documented comparative interpretation by the Zoning Administrator or the Board of Zoning Adjustment. Such permitted principal, accessory or conditional use allowed by documented interpretative comparison will be incorporated into the land use schedule accordingly through periodic amendment of these regulations.

3.9.1.G. **MINIMUM LOT REQUIREMENTS.** No limitation.

3.9.1.H. **MINIMUM YARD SETBACK AND SEPARATION REQUIREMENTS.**

1. **FRONT YARD:** No minimum setback 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 a Residential District or residential use shall be ten (10) feet.
3. **SIDE YARD:** None, except the minimum side yard abutting a Residential District or residential use shall be ten (10) feet.
4. **ACCESSORY STRUCTURE LOCATION:** The placement of accessory structures is further regulated by Section 5.1.1. of the zoning regulations.

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

3.9.1.J. **MAXIMUM HEIGHT.** No structure shall exceed thirty-five (35) feet in height.

3.9.2 C-2 CENTRAL BUSINESS DISTRICT

3.9.2.A. **INTENT.** The intent of the C-2 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.

3.9.2.B. **PERMITTED PRINCIPAL USES.** Permitted principal uses are listed in the land use schedule in Section 3.11.

3.9.2.C. **PERMITTED ACCESSORY USES.** Accessory uses and structures normally appurtenant to the permitted principal uses and permitted conditional uses shall be permitted subject to the parameters of this Ordinance and other applicable regulations and conditions.

3.9.2.D. **CONDITIONAL USES.** Conditional uses are listed in the land use schedule in Section 3.11. After the provisions of the regulations relating to the conditional use permit process and applicable supplementary district regulations have been fulfilled the City Council may permit conditional uses identified in the land use schedule with or without additional conditions attached to the permit.

3.9.2.E. **PERFORMANCE STANDARDS.** The following regulations shall apply as minimum requirements for all non-residential uses in the C-2 Central Business District.

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1. Where a site adjoins or is located across an alley from any Residential District or residential use, 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 or uses except in a required front yard.
2. No outdoor or open storage of materials is allowed. Accessory uses such as outdoor eating areas / retail sales displays are allowed but cannot interfere with safe pedestrian and vehicular movement. Outdoor entertainment uses may be allowed through the issuance of a special event permit or Conditional Use Permit.
3. No use shall be permitted and no process, equipment or materials shall be used which are found 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.

3.9.2.F. PROHIBITED USES. All other uses which are not specifically permitted or not permissible as conditional uses shall be prohibited unless determined to be a permitted principal, accessory or conditional use via a documented comparative interpretation by the Zoning Administrator or the Board of Zoning Adjustment. Such permitted principal, accessory or conditional use allowed by documented interpretative comparison will be incorporated into the land use schedule accordingly through periodic amendment of these regulations.

3.9.2.G. MINIMUM LOT REQUIREMENTS. No Limitations.

3.9.2.H. MINIMUM YARD REQUIREMENTS.

1. FRONT YARD: No minimum setback 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 any Residential District or residential use shall be twenty (20) feet.
3. SIDE YARD: None, except the minimum side yard abutting any Residential District or residential use shall be ten (10) feet. Where a lot is abutting on property in a RH Residential High Density District across an alley, there shall be a minimum side yard setback of five (5) feet.
4. ACCESSORY STRUCTURE LOCATION: The placement of accessory structures is further regulated by Section 5.1.1. of the zoning regulations.

3.9.2.I. MAXIMUM LOT COVERAGE. No limitations.

3.9.2.J. MAXIMUM HEIGHT. No structures shall exceed seventy-five (75) feet.

3.9.3. C-3 GENERAL COMMERCIAL DISTRICT

3.9.3.A. INTENT. The C-3 District is intended primarily for application to areas along major highways and arterials for the development of higher traffic commercial retail businesses, businesses that cater to the traveling public, and office and/or industrial employment uses carried on entirely indoors that cannot fit the scale and character of the central business district. This district is not intended for industrial uses or commercial service businesses requiring fleets of vehicles, outdoor storage of equipment or product, etc. Commercial businesses primarily engaged in the provision of commercial or industrial services serving residential, commercial and industrial uses should be located in industrial zoning districts.

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3.9.3.B. PERMITTED PRINCIPAL USES. Permitted principal uses are listed in the land use schedule in 3.11.

3.9.3.C. PERMITTED ACCESSORY USES. Accessory uses and structures normally appurtenant to the permitted principal uses and permitted conditional uses shall be permitted subject to the parameters of this Ordinance and other applicable regulations and conditions.

3.9.3.D. CONDITIONAL USES. Conditional uses are listed in the land use schedule in Section 3.11. After the provisions of the regulations relating to the conditional use permit process and applicable supplementary district regulations have been fulfilled the City Council may permit conditional uses identified in the land use schedule with or without additional conditions attached to the permit.

3.9.3.E. PERFORMANCE STANDARDS. The following regulations shall apply as minimum requirements for all non-residential uses in the C-3 General Commercial District.

1. Where a site adjoins or is located across the alley from any Residential District or residential use, 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. Outdoor 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. No use shall be permitted and no process, equipment or materials shall be used which are found 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.

3.9.3.F. PROHIBITED USES. All other uses which are not specifically permitted or not permissible as conditional uses shall be prohibited unless determined to be a permitted principal, accessory or conditional use via a documented comparative interpretation by the Zoning Administrator or the Board of Zoning Adjustment. Such permitted principal, accessory or conditional use allowed by documented interpretative comparison will be incorporated into the land use schedule accordingly through periodic amendment of these regulations.

3.9.3.G. MINIMUM LOT REQUIREMENTS. There shall be no minimum lot area.

3.9.3.H. MINIMUM YARD REQUIREMENTS.

1. FRONT YARD: Twenty-five (25) feet.
2. REAR YARD: None, except the minimum rear yard abutting a Residential District or residential use, or adjacent to a street or alley shall be twenty-five (25) feet.
3. SIDE YARD: None except the minimum side yard abutting a Residential District or residential use, or street or alley shall be twenty-five (25) feet.
4. ACCESSORY STRUCTURE LOCATION: The placement of accessory structures is further regulated by Section 5.1.1. of the zoning regulations.

3.9.3.I. MAXIMUM LOT COVERAGE. No lot shall be covered by buildings and/or parking areas or other impervious surfaces in excess of 85% of the total land area available. Land shall not be

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deemed covered if used for growing grass, shrubs, trees, plants or flowers, or if covered by decorative gravel or wood chips if suitably landscaped.

3.9.3.J. MAXIMUM HEIGHT. No structure shall exceed thirty-five (35) feet.

SECTION 3.10: INDUSTRIAL 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 to protect nuisance-free non-hazardous commercial and 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.

3.10.1. ML LIGHT INDUSTRIAL DISTRICT

3.10.1.A. INTENT. The intent of this district is to provide space for certain commercial uses and a wide range of warehouse / distribution and light industrial uses which are able to meet certain performance standards to protect nearby property 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.

3.10.1.B. PERMITTED PRINCIPAL USES. Permitted principal uses are listed in the land use schedule in Section 3.11.

3.10.1.C. PERMITTED ACCESSORY USES. Accessory uses and structures normally appurtenant to the permitted principal uses and permitted conditional uses shall be permitted subject to the parameters of this Ordinance and other applicable regulations and conditions.

3.10.1.D. CONDITIONAL USES. Conditional uses are listed in the land use schedule in Section 3.11. After the provisions of the regulations relating to the conditional use permit process and applicable supplementary district regulations have been fulfilled the City Council may permit conditional uses identified in the land use schedule with or without additional conditions attached to the permit.

3.10.1.E. PERFORMANCE STANDARDS. The following regulations shall apply as minimum requirements for all uses in the ML Light Industrial District.

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

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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 ($\frac{1}{2}$) 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 ($\frac{1}{2}$) 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.
6. 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.
7. 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.
8. 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.
9. 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 ($\frac{3}{1,000}$) of an inch measured at the property line. The use of steam or broad hammers shall not be permitted.
10. 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.
11. A use not conducted entirely within a completely enclosed structure, on a site across a street or alley from a Residential District or residential use, 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.
12. Where a site adjoins a Residential District or residential use, 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.
13. 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),

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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.

14. 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 inhabitation or closer than two hundred (200) feet from any Residential or Commercial District or residential or commercial use.
15. All portions of any lot shall be maintained in good condition free from weeds, trash and debris.

3.10.1.F. PROHIBITED USES. All other uses which are not specifically permitted or not permissible as conditional uses shall be prohibited unless determined to be a permitted principal, accessory or conditional use via a documented comparative interpretation by the Zoning Administrator or the Board of Zoning Adjustment. Such permitted principal, accessory or conditional use allowed by documented interpretative comparison will be incorporated into the land use schedule accordingly through periodic amendment of these regulations.

3.10.1.G. MINIMUM LOT REQUIREMENTS. No limitations.

3.10.1.H. MINIMUM YARD REQUIREMENTS.

1. FRONT YARD: Twenty-five (25) feet.
2. REAR YARD: None, except the minimum rear yard abutting a Residential District or residential use shall be twenty-five (25) feet.
3. SIDE YARD: None, except the minimum side yard abutting a Residential District or residential use shall be ten (10) feet.
4. ACCESSORY STRUCTURE LOCATION: The placement of accessory structures is further regulated by Section 5.1.1. of the zoning regulations.

3.10.1.I. MAXIMUM LOT COVERAGE. No limitations.

3.10.1.J. MAXIMUM HEIGHT. No structure shall exceed seventy-five (75) feet. Except structures with a height greater than seventy-five (75) feet may be allowed if the structure is placed on the property in such a manner that the setback from all property lines is equal to or exceeds the height of the structure.

3.10.2. MH HEAVY INDUSTRIAL DISTRICT

3.10.2.A. 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 property 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.

3.10.2.B. PERMITTED PRINCIPAL USE. Permitted principal uses are listed in the land use schedule in Section 3.11.

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3.10.2.C. PERMITTED ACCESSORY USES. Accessory uses and structures normally appurtenant to the permitted principal uses and permitted conditional uses shall be permitted subject to the parameters of this Ordinance and other applicable regulations and conditions.

3.10.2.D. CONDITIONAL USES. Conditional uses are listed in the land use schedule in Section 3.11. After the provisions of the regulations relating to the conditional use permit process and applicable supplementary district regulations have been fulfilled the City Council may permit conditional uses identified in the land use schedule with or without additional conditions attached to the permit.

3.10.2.E. PERFORMANCE STANDARDS. The following regulations shall apply as minimum requirements for all uses in the MH Heavy Industrial District.

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.
6. 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.
7. 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.
8. 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

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per million, carbon monoxide shall not exceed twenty-five (25) parts per million, and nitrous fumes shall not exceed five (5) parts per million.

9. 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.
10. Where a site adjoins a Residential District or residential use, a solid wall, or fence, vine covered open fence or compact evergreen hedge, six (6) feet in height.
11. A use not conducted entirely within a completely enclosed structure, on a site across a street or alley from a Residential District or residential use, 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.
12. 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 Commercial District or residential or commercial use.

3.10.2.F. PROHIBITED USES. All other uses which are not specifically permitted or not permissible as conditional uses shall be prohibited unless determined to be a permitted principal, accessory or conditional use via a documented comparative interpretation by the Zoning Administrator or the Board of Zoning Adjustment. Such permitted principal, accessory or conditional use allowed by documented interpretative comparison will be incorporated into the land use schedule accordingly through periodic amendment of these regulations.

3.10.2.G. MINIMUM LOT REQUIREMENTS. No limitations.

3.10.2.H. MINIMUM YARD REQUIREMENTS.

1. FRONT YARD: Twenty-five (25) feet.
2. REAR YARD: None, except the minimum rear yard abutting a Residential District or a residential use shall be twenty-five (25) feet.
3. SIDE YARD: None, except the minimum side yard abutting a Residential District or residential use shall be ten (10) feet.
4. ACCESSORY STRUCTURE LOCATION: The placement of accessory structures is further regulated by Section 5.1.1. of the zoning regulations.

3.10.2.I. MAXIMUM LOT COVERAGE. No limitations.

3.10.2.J. MAXIMUM HEIGHT. No structure shall exceed one hundred (100) feet. Except structures with a height greater than one hundred (100) feet may be allowed if the structure is placed on the property in such a manner that the setback from all property lines is equal to or exceeds the height of the structure.

3.11 LAND USE TABLE. The land use table provides a summary of the land use types allowed within each zoning district. The table is intended for reference and does not necessarily reflect all of the regulations that may apply to particular uses or districts. In the event of conflict between the schedule and the permitted and conditional use regulations found within the individual district sections of this article the text of the individual district regulations shall prevail.

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1. Permitted: Uses identified in a particular district column of the land use schedule with a “P” are “permitted by right” and shall be permitted in such district, subject to such all other requirements of this article and these regulations.
2. Conditional permit uses: Uses identified in a particular district column of the land use schedule with an “C” are “conditional permit uses” and shall be permitted in such district if reviewed and approved by the City Council in accordance with the procedures and standards of this article. Conditional permit uses shall be subject to such supplementary use regulations all other requirements of this article and these regulations.
3. Not permitted: Uses not identified in a particular district column of the land use table as permitted or by special use permit are not allowed in such district unless otherwise expressly permitted by other regulations of this article or via the interpretation of such proposed use as comparable to those listed in the table and in keeping with the intent of the applicable zoning district.

P = Permitted

C = Conditional permit use

Certain development types (Section 5.7), as well as development seeking plan exceptions or deviations per (Section 2.2.4) are subject to the development plan review process (Section 2.2.4). All uses and property development is subject to the applicable specific district regulations (Article 3), special district regulations (Article 4) and supplemental regulations (Article 5).

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USES	ZONING DISTRICTS									
	AG	RR	RL	RM	RH	C-1	C-2	C-3	ML	MH
	AGG / AEDS	RRE	RL	(RM + RML)	(RMH)	BNC(C-1)	BCB(C-2)	(BHC(C-3)+ BTS(C-4)+BEC(C-5)	ML	MH
AGRICULTURAL										
Agricultural Produce Stand	P	P								
Agricultural Production	P	P								
Agricultural Service	C									
Animal Husbandry	P	P								
Bulk Grain Storage / Grain Elevator	P								P	P
Feed Lots (1st / 2nd / 3rd Class)	C									C
Livestock Auction / Sales Barn										P
NATURAL RESOURCE										
Gas / Oil Wells	C									C
Natural Resource Extraction / Processing	C									C
RESIDENTIAL										
Boarding and Rooming Houses / Bed and Breakfasts	C	P	C	C	C		P			
Convalescent / Nursing / Rest Homes					P	P				
Group Home		C	C	C	C					
Group Shelters / Transitional Housing		C			C		C	P		
Home Occupation	P	P	P	P	P					
Independent and Assisted Living Center					P	P				
Live Work / Loft (Residential / Commercial) Dwelling (not in 1st / ground / basement level)						P	P			
Mobile / Manufactured Home Park					P					
Multi-Family Dwellings - General					P					
Muti-Family Dwellings - Limited (6 units or less)				C	P					
Short-term Residential Rental	P	P	P	P	P	P	P			
Single-Family Dwellings (attached)			C	C	P	P	P			
Single-Family Dwellings (dettached)	P	P	P	P	P					
Accessory Dwelling Unit	P	P		C	P					
Tiny Homes / Tiny Home Community					P					
Two-Family Dwelling (Duplex)			C	P	P					
CIVIC / PUBLIC ASSEMBLY / SEMI-PUBLIC / UTILITY										
Airports / Landing Strips / Heliports	C							C	C	C
Cemetaries	C	C	C	C	C					
Communication Equipment / Structures		C			C	C	P	P	P	P
Communication Towers	C	C	C	C	C	C	C	C	C	C
Community / Cultural / Educational Facilities	C	C	C	C	C	C	C	P	P	
Golf Course (and accessory uses)	C	C	C	C	C					
Government / Public Service Administrative Facilities				C	C	P	P	P		
Government / Public Service Yards						C	C	P	P	P
Hospital				C	C	P	P	P		
Libraries				C	C	P	P	P		
Parks (public / private)	P	P	P	P	P	P	P	P	P	P

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USES	ZONING DISTRICTS									
	AG	RR	RL	RM	RH	C-1	C-2	C-3	ML	MH
	AGG / AEDS	RRE	RL	(RM + RML)	(RMH)	BNC(C-1)	BCB(C-2)	(BHC(C-3)+ BTS(C-4)+BEC(C-5))	ML	MH
Post Offices						C	P	P	P	P
Public Safety / Emergency Service Facilities	C	C	C	C	C	C	P	P	P	P
Recreation / Entertainment Facilities - Indoor (public / private)	C	C	C	C	C	P	P	P	C	
Recreation / Entertainment Facilities - Outdoor (public / private)	C	C	C	C	C	C	C	P	C	
Religious Facilities / Institutions (Churches)	C	C	C	C	C	P	P	P		
Sports Arenas / Stadiums (within buildings)							C	P	P	
Theaters / Auditoriums						C	P	P	P	
Utility and Service Facilities	C	C	C	C	C	C	C	P	P	P
Water / Sewage Treatment Facilities	C								P	P
COMMERCIAL / INDUSTRIAL										
Art Galleries						P	P	P	P	
Automatic Bank Teller Machines - external / stand alone						C	C	P	P	P
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.									C	P
Banks (with or without drive through or ATM)						C	P	P	P	
Barber and Beauty Shops						P	P	P	P	
Bars / Cocktail Lounges / Drinking Establishments / Nightclubs							P	P	P	
Bicycle Shops						P	P	P	P	
Billiard / Pool Halls							P	P	P	
Bowling Alleys							P	P	P	
Bus Depots / Public Transit Transfer Stations							P	P	P	P
Bus / Transit Fleet (storage, repair or service)									P	P
Commercial Day Care Centers (per state regulations)	C	C			C	P	P	P	C	
Commercial Retail - stores / shops						P	P	P	P	P
Commercial Services								P	P	P
Commercial Services - limited						P	P	P	P	P
Contractor / Equipment / Vehicle Fleet Yards									P	P
Convenience Stores						C	P	P	P	P
Exterminators								P	P	P
Farm Equipment Sales / Display - with or without repair services	C							P	P	P
Feed and Seed Stores (enclosed structure only)	C							P	P	P
Funeral Homes / Chapels / Mortuaries						C	P	P	P	
Garden Supply / Outdoor Nurseries	P							P	P	
Garden Supply Stores - Nurseries limited (enclosed area and container / packaged form)	C					C	C	P	P	
Hotels / Motels / Lodging Facilities							P	P	P	
Household Appliance / Repair Shops						P	P	P	P	
Industrial Services									P	P
Kennels - indoor	P							P	P	P
Kennels - outdoor	C							C	P	P
Laundries / Dry Cleaning - self service or pick-up / drop off activities only						P	P	P	P	P
Liquor Stores							P	P	P	
Manufacturing / Fabrication / Assembly									P	P

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USES	ZONING DISTRICTS									
	AG	RR	RL	RM	RH	C-1	C-2	C-3	ML	MH
	AGG / AEDS	RRE	RL	(RM + RML)	(RMH)	BNC(C-1)	BCB(C-2)	(BHC(C-3)+ BTS(C-4)+BEC(C-5)	ML	MH
Manufacturing / Fabrication / Assembly - limited						C	C	P	P	P
Meat Locker								P	P	P
Meat and poultry packing, slaughtering, eviscerating and skinning; and the rendering of by-products of slaughtering and killing animals or poultry.										P
Medical / Health Facilities						P	P	P	P	
Mini / Self- storage Rental Buildings								C	P	P
Music / Dance Studios					C	P	P	P	P	
New / Used Automobile Sales							C	P	P	P
New / Used Automobile Sales with limited repair services								P	P	P
Office / Office Buildings business and professional						P	P	P	P	P
Parking Lot (stand alone - public or private)						P	P	P	P	P
Parcel Delivery Services							P	P	P	P
Pharmacy						C	P	P	P	
Printing Shops							P	P	P	P
Recreational Vehicle Parking Area								P	P	P
Recreational Vehicle Sales / Service / Rentals / Repair								P	P	P
Repair Services - Automobile								P	P	P
Repair Services - Automobile Limited							C	P	P	P
Restaurants - Drive-in / Drive-thru							C	P	P	
Restaurants / Cafes						P	P	P	P	
Retail Stores / Shops						P	P	P	P	
Service / Gas Stations - Automobile (with or without minor repair services and/or carwash)							C	P	P	P
Service / Gas Stations - Automobile Limited						C	P	P	P	P
Tattoo Parlor / Body Piercing / Permanent Cosmetics and Branding							P	P	P	P
Truck Fueling / Repair Services (not including truck / trailer washing facilities)								P	P	P
Truck Fueling / Repair Services (truck / trailer washing facilities)									P	P
Trucking / Distribution									P	P
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.	C							P	P	
Wholesale / Storage / Warehouse									P	P
Storage / Warehouse - limited						P	P	P	P	P

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4.1. SPECIAL DISTRICTS. These special district regulations are intended to provide specific conditions for uses and structures which would otherwise not be included in the district regulations of Article 3 of this Ordinance. These special districts are indicated on the Official Zoning Map. The applicable regulations for property located within a special district would, therefore, include the district regulations for the parent zoning district and the respective special district regulations.

4.2. WNR AIRPORT AREA DISTRICT

4.2.1. INTENT. This article shall be known as airport zoning regulations. These regulations are intended to provide for the safe operation of aircraft into and out of Western Nebraska Regional Airport, William G. Heilig Field.

4.2.2. DEFINITIONS. The following definitions shall be used for terms contained in this section that are not otherwise defined.

1. Airport: Western Nebraska Regional Airport, William G. Heilig Field, Scottsbluff, Nebraska.
2. Airport Elevation: William G. Heilig: 3,944 feet MSL.
3. Airport Encroachment: Any structure, tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at Western Nebraska Regional Airport, William U. Heilig Field, or is otherwise hazardous to the operation of aircraft.
4. Airport Encroachment Area: Any area of land or water upon which an airport hazard might be established if not prevented by this article.
5. Departure Limit: The horizontal line perpendicular to the runway center line, established as the beginning of the usable takeoff runway.
6. Electrical Facility: Electrical facility means an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in Neb. Rev. Stat. 70-1001.01, for the transmission or distribution of electrical power to the electric supplier's customers.
7. Existing Runway: Existing runway means an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.
8. Landing Area: The area of the airport intended for use for the landing, taking off or taxiing of aircraft.
9. Landing Threshold: A horizontal line, perpendicular to the runway center line, established as the beginning of the usable landing runway.
10. Locations and Borders: Vicinity of the airport located in Sections 16, 17, 20 and 21, Township 22, Range 54, Scotts Bluff County, Nebraska.
11. Mean Sea Level: The United States Coast and Geodetic Survey zero datum plane, abbreviated "MSL".
12. Nonconforming Use: Any structure, tree or use of land which does not conform to the requirements of this article, or an amendment thereto, as of the effective date of this article or amendment.
13. Person: Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee or other similar representatives thereof.
14. Political Subdivision: Political subdivision means any municipality, city, village, or county.
15. Proposed Runway: Proposed runway means an instrument runway or a visual runway that has not been constructed and is not under construction, but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.
16. Runway: Runway means a defined area at an airport that is prepared for the landing and takeoff of aircraft along its length.
17. Structure: Any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.
18. Tree: Any object of natural growth, except farm crops which are cut at least once a year, and except shrubs, bushes or plants which do not grow to a height of more than five feet.

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19. Zoning Reference Point: The point of intersection of the center line of William B. Heilig Field, Runway 12/30 with the center line of William B. Heilig Field, Runway 5/23.

4.2.3. AIRPORT HAZARD AREA DESCRIPTION. The Airport Hazard Area shall consist of the Operation Zones, Approach zones, Turning Zones and Transition Zones as described in this section.
Zone Descriptions

1. The Operation Zones are longitudinally centered on each existing or proposed runway.
 - a. Length. For existing and proposed paved runways, the operation zones begin and end 200 feet beyond the end of each runway. For existing and proposed turf runways, the operation zones begin and end at the runway ends.
 - b. Width. For existing and proposed instrument runways, the operation zones are 1,000 feet wide, with 500 feet on either side of the runway centerline. For all other existing and proposed runways, the operation zones are 500 feet wide, and two hundred fifty feet on either side of the runway centerline.
 - c. Height. The height limit of the operation zones is the same as the height of the nearest point on the existing or proposed runway or the surface of the ground, whichever is higher.
2. The Approach Zones extend from the end of each operation zone and are centered along the extended runway centerlines. An approach zones' dimensions are as follows:
 - a. Instrument Runways
 - i. Length and Width. The approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is one thousand (1,000) feet wide at the end of the nearest runway (i.e., adjacent to the operation zone) and expand uniformly to sixteen thousand eight hundred forty (16,840) feet wide at the farthest end of the zone (i.e., ten miles (10) from the operation zone).
 - ii. Height Limit. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every fifty feet horizontally (50:1), except that the height limit shall not exceed one hundred fifty (150) feet above the nearest existing or proposed runway end elevation within three (3) miles from said operation zone, the height limit resumes sloping one foot vertically for every fifty feet horizontally (50:1) and continues to the ten (10) mile limit.
 - b. Visual Runways
 - i. Length and Width. An approach zone extends from the operational zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is five hundred (500) feet wide at the end of the zone nearest the runway (i.e., adjacent to the operation zone) and expands uniformly so that at a point on the extended runway centerline three (3) miles from the operation zone, the approach zone is three thousand seven hundred feet wide.
 - ii. Height. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every forty (40) feet horizontally, except that the height limit shall not exceed one hundred fifty (150) feet above the nearest existing or proposed runway end elevation within three miles of the end of the operation zone at the runway end.
3. The Transition Zones extend outward at a right angle to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally (7:1). The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of one hundred fifty (150) feet above the highest elevation on the existing or proposed runway.
4. The Turning Zones are located at the distance of three miles (3) radius from the corners of the operational zone of each runway and connection adjacent arcs with tangent lines, excluding any area

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within the operation zone, approach zone, or transition zone. The height limit of the turning zone is one hundred fifty feet above the highest elevation on the existing or proposed runway.

4.2.4. ADOPTION OF WESTERN NEBRASKA REGIONAL AIRPORT, LAYOUT PLAN. In order to define the dimensions of the zones established by these regulations, the City of Gering hereby adopts the Airport Project No. 3-31-0072-22, Airport Layout Plan, dated February 8, 2016. All subsequent adopted Airport Layout Plans are hereby incorporated by reference.

4.2.5. AIRPORT ENCROACHMENT AREA. There is hereby created an airport encroachment area which consists of runway area zones, approach departure zones, transition zones, horizontal zone, and conical zone, which are shown on the airport zoning map and defined as follows:

1. Runway Area Zones Runway area zones are established along the runways, having a width of 1,000 feet symmetrically located along both sides of the center line of the runway and all other area between parallel runways, and extended longitudinally 200 feet beyond the outermost landing threshold, departure limit, or of the runway.
2. Approach-Departure Zones Approach-departure zones are established beyond and outward from the landing thresholds and departure limits of the runways, having a width of 1,000 feet at their beginning, and a distance of 200 feet outward from the landing thresholds and departure limits, symmetrically located along both sides of the extended center line of the runway, and widening uniformly to a width of 16,000 feet at the outer limit of the zone, a distance of 50,000 feet outward from the landing thresholds and department limits.
3. Transition Zones Transition zones are established along both sides of all runways, and adjacent to the runway area zone, extending laterally outward there from for varying distances to a line formed by the locus of the points where the height limits of the transition zones equal the height limit of the horizontal zone or equal the transition zone of runway area zones, and being between the beginning of the approach-departure zones at each end of the runway. Further, transition zones are established along both sides of all approach departure zones, and extending laterally outward therefrom for varying distances to a line formed by the locus of the points where the height limits of the transition zone equal the height limits of the horizontal zone or the height limits of the conical zone, or for a distance of 5,000 feet, whichever is less. Transition zones so established extend longitudinally between the inner and outer limits of the approach-departure zones, which is a distance of 50,000 feet.
4. Horizontal Zone A horizontal zone is established which has as its outer boundary a line which is at all times 10,000 feet beyond the landing area and 150 feet above airport elevation.
5. Conical Zone The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.
6. Conflicts of Height Limits. Where an area is subject to more than one height limit, the most restrictive limit shall apply.

4.2.6. HEIGHT LIMITS. No building, transmission line, pole, tower, chimney, wires, or other structures or appurtenance of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in Section 4.2.5.

4.2.7 USE REGULATIONS. Notwithstanding any other provision of this section, no use may be made of any land within any runway area zone, approach-departure zone, horizontal zone, conical zone or transition zone in any manner as to create electrical interference with the radio or radar communication or navigation aids between the airport and aircraft; make it difficult for air crews to distinguish between airport lights and others; result in glare in the eye of air crews using the airport; impair visibility in the

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vicinity of the airport; or otherwise endanger the landing, taking off or maneuvering of aircraft within these zones.

4.2.8. NONCONFORMING USES WITHIN THE AIRPORT ZONE.

1. Continuation of lawful nonconforming uses. Any land use lawfully existing on the effective date of this chapter may continue, subject to the provisions of this section.
2. Enlarging degree of nonconformance. No nonconforming structure or tree shall be built, replaced, altered, replanted or allowed to grow to a height that increases the degree of nonconformance or that violates the height limits established by this section.
3. Damage or destruction.
 - a. Should a structure occupied by a lawful nonconforming use be damaged to the extent that the cost of restoration exceeds 50 percent of the replacement cost of the structure, the nonconforming use shall no longer be permitted.
 - b. Any nonconforming tree which has been damaged or decayed to the extent of 50 percent or more shall be removed.
4. Abandonment. If any structure or property containing a lawful nonconforming use becomes vacant or unused for a continuous period of six months, any subsequent use must conform to all airport zoning regulations.
5. Unlawful nonconforming uses. These provisions shall not be interpreted as authorization for or approval of the continuation of any structure, use or tree in violation of any zoning regulations in effect on or before the effective date of this chapter.

4.2.9. ADMINISTRATION AND ENFORCEMENT OF ARTICLE

1. Enforcement by Appropriate Political Subdivision. The location of various encroachment area(s) is within the zoning authority of the City of Gering.
2. Administrative Agency. It shall be the duty of the City of Gering to enforce this section, and the appropriate political subdivision is hereby appointed the “administrative agency” provided for in R.R.S.; 1943, 3-3 JS. The appropriate administrative agency shall have all the powers and perform all duties as provided by the Airport Zoning Act.
3. Permit Applications. Applications for permits shall be made to the City of Gering upon a form furnished by it. Any application shall be promptly considered and granted or denied. Applications for action by the Board of Zoning Adjustment shall be transmitted in accordance with the applicable provisions of this “Airport Zoning Regulations”, appropriate city ordinances and state law.

4.2.10. PERMIT; REQUIRED AND EXCEPTIONS.

1. Permit Required. It shall hereafter be unlawful to erect, construct, reconstruct, repair, or establish any building, transmission line, pole, tower, chimney, wires or any other structure or appurtenance within the Hazard Area without first obtaining a permit from the City of Gering as the case may be, upon a form furnished by it. Any application shall be promptly considered and granted or denied. Applications for action by the City of Gering shall be transmitted in accordance with the application provisions of the City of Gering, appropriate city and/or county ordinances, and/or state law. It shall also be unlawful to plant or replant any tree or other object of natural growth without the necessary permit.
2. Permit Exceptions. Within the outer area of the Approach Zones and within the Turning Zones, no permit shall be required for any construction or planting that is not higher than seventy-five (75) feet above the nearest existing or proposed runway end. The repair, reconstruction, or replacement of non-conforming electric facilities will be permitted in compliance with Neb. Rev. Stat., 3-311(3).

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3. Location Sketch and Zoning Map. The boundaries, Approach Zones, Operations Zone, Transition Zones, and Turning Zones of the airport are indicated on the Zoning Map that accompanies and is hereby made a part hereof by reference. A copy of the airport hazard area zoning regulations shall at all times be on file in the office of the Airport Director located at Western Nebraska Regional Airport.

4.2.11. APPEALS

1. Designation of Board of Adjustment. The City Council for the City of Gering or its designee, shall be the Board of Adjustment with respect to this section and shall have and exercise the powers conferred by R.R.S. 1943, 3-320, and such other powers and duties as are conferred and imposed by law. Any person aggrieved or affected by any decisions or actions made in the administration of this article may appeal such decision or action to the appropriate Board of Adjustment. Any appeal taken pursuant to this section shall be by the procedure established by law.
2. Powers of the Board of Adjustment. The City Council for the City of Gering shall have the following powers:
 - a. To hear and decide appeals from any order, requirement or decision made by the permits and inspections division in the enforcement of this section.
 - b. To hear and decide any special exemptions to the terms of this section which such Board may be required to pass under this section.
 - c. To hear and decide specific variances under R.R.S. 1943 3-312.
3. Appeal from decisions of the Board of Adjustment. Any person aggrieved or affected by a decision of the City of Gering may appeal to the District Court for Scotts Bluff County, Nebraska, in the manner provided in R.R.S. 1943, 3-324 et seq.

4.3 FLOOD PLAIN DISTRICT

4.3.1. STATUTORY AUTHORIZATION. The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety, general welfare, and property of the people of the state. The Legislature, in *Nebraska Revised Statutes* Sections 31-1001 to 31-1023 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city, or village with zoning jurisdiction over the floodprone area. Therefore the City Council of Gering, Nebraska ordains as follows:

4.3.2. FINDINGS OF FACT

1. Flood Losses Resulting from Periodic Inundation. The flood hazard areas of Gering, Nebraska are subject to inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. General Causes of the Flood Losses. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities as well as the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.

4.3.3. STATEMENT OF PURPOSE. It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.2 by applying the provisions of this ordinance to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause

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undue increases in flood heights or velocities.

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

4.3.4. ADHERENCE TO REGULATIONS. The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the Nebraska Minimum Standards for Floodplain Management Programs as published in the Nebraska Administrative Code Title 455, Chapter 1.

4.3.5. GENERAL PROVISIONS

4.3.5.A. LANDS TO WHICH ORDINANCE APPLIES. This ordinance shall apply to all lands within the jurisdictions of the Gering identified on the Flood Insurance Rate Map (FIRM) panels 310371 005 and 310371 005A dated February 15, 1979 as well as 310473 0175 A and 310473 0150A, dated June 18th, 1990. In all areas covered by this ordinance, no development shall be allowed except upon the issuance of a floodplain development permit to develop, granted by the floodplain administrator or the governing body under such safeguards and restrictions as the City of Gering or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 4.0 and 5.0.

4.3.5.B. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. The boundaries of the floodway and the flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the effective Flood Insurance Rate Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the zoning or other community map, the floodplain administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the City Board of Zoning Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the City Board of Zoning Adjustment and to submit their own technical evidence, if so desired.

4.3.5.C. COMPLIANCE. Within identified floodplains of this community, no development shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

4.3.5.D. ABROGATION AND GREATER RESTRICTIONS. This ordinance does not intend to repeal, abrogate, or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

4.3.5.E. INTERPRETATION. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of

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the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

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

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

4.3.6. ESTABLISHMENT OF ZONING DISTRICTS. Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: a floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the Flood Insurance Study dated August 1978 (areas within the corporate limits at the time) and the Flood Insurance Study dated June 18, 1990 (recently annexed areas and areas in the City's extraterritorial zoning jurisdiction) and on accompanying FIRM panels as established in Section 2.1. The flood fringe overlay district shall correspond to flood zones A, AE, A1-30, AH, AO, AR, A99, and floodway areas in Zone AE that are identified on FIRM panels. The floodway overlay district shall correspond to the floodway areas in Zone AE that are identified on the FIRM panels. Within these districts, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

4.3.7. FLOODPLAIN MANAGEMENT ADMINISTRATION

4.3.7.A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR. The City Engineer of the community is hereby designated as the community's local floodplain administrator. The floodplain administrator is authorized and directed to administer, implement, and enforce all provisions of this ordinance. If the local floodplain administrator position is unfilled, the community CEO shall assume the duties and responsibilities herein.

4.3.7.B. PERMITS REQUIRED. A floodplain development permit shall be required before any development, construction, or substantial improvement is undertaken. No person, firm, corporation, government agency, or other entity shall initiate any floodplain development without first obtaining a floodplain development permit.

4.3.7.C. DUTIES OF THE FLOODPLAIN ADMINISTRATOR. Duties of the floodplain administrator shall include, but not be limited to the following:

1. Review, approve, or deny all applications for floodplain development permits.
2. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
3. Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.

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4. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
5. Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
6. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
7. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures in the floodplain.
8. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which all new or substantially improved structures have been floodproofed.
9. Verify, record, and maintain record of all improved or damaged structures to ensure compliance with standards in applicable sections. Track value of improvements and market value with permits. Also, ensure consistent market value estimations to evaluate against damaged or improved values.
10. Ensure comprehensive development plan as amended is consistent with this ordinance.
11. In the event the floodplain administrator discovers work done that does not comply with applicable laws or ordinances, the floodplain administrator shall revoke the permit and work to correct any possible violation in accordance with this ordinance.

4.3.7.D. APPLICATION FOR PERMIT AND DEMONSTRATION OF COMPLIANCE.

1. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
 - a. Identify and describe the proposed development and estimated cost to be covered by the floodplain development permit.
 - b. Describe the land on which the proposed development is to be done by lot, block, tract, and house and streets address, or similar description that will readily identify and definitely locate the proposed building or development.
 - c. Indicate the use or occupancy for which the proposed development is intended.
 - d. Be accompanied by plans and specifications for proposed construction.
 - e. Be signed by the permittee and authorized agent who may be required to submit evidence to indicate such authority.
2. If any proposed development is located entirely or partially within a floodplain, applicants shall provide all information in sufficient detail and clarity to enable the floodplain administrator to determine that:
 - a. All such proposals are consistent with the need to minimize flood damage;
 - b. All utilities and facilities such as sewer, gas, water, electrical, and other systems are located and constructed to minimize or eliminate flood damage;
 - c. Structures will be anchored to prevent flotation, collapse, or lateral movement;
 - d. Construction materials are flood resistant;
 - e. Appropriate practices to minimize flood damage have been utilized; and
 - f. Electrical, heating, ventilation, air conditioning, plumbing, and any other service facilities have been designed and located to prevent entry of floodwaters.
3. For all new and substantially improved structures, an elevation certificate based upon the finished construction certifying the elevation of the lowest floor, including basement, and other relevant building components shall be provided to the floodplain administrator and be

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- completed by a licensed surveyor, engineer, or architect.
4. When floodproofing is utilized for an applicable structure, a floodproofing certificate shall be provided to the floodplain administrator and be completed by a licensed professional engineer or architect.
 5. For all development proposed in the floodway, no-rise certification shall be provided to the floodplain administrator and be completed by a licensed professional engineer.
 6. Any other such information as reasonably may be required by the floodplain administrator shall be provided.
 7. Letters of Map Revision: Federal regulations in Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.5 and 65.6 allow for changes to the special flood hazard area through a Letter of Map Revision (LOMR) or a Letter of Map Revision Based on Fill (LOMR-F), provided the community determines that the land and any existing or proposed structures that would be removed from the floodplain are “reasonably safe from flooding.” The community acknowledgement form asserting this is required for LOMR and LOMR-F applications and must be signed by the floodplain administrator. The floodplain administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:
 - a. Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F.
 - b. Applicant shall demonstrate that the property and any existing or proposed structures will be “reasonably safe from flooding,” according to the minimum design standards in FEMA Technical Bulletin 10-01.
 - c. All requirements listed in the Simplified Approach in FEMA Technical Bulletin 10-01 shall be met and documentation from a registered professional engineer shall be provided. If all of these requirements are not met, applicant must provide documentation in line with the Engineered Approach outlined in FEMA Technical Bulletin 10-01.

4.3.7.E. FLOOD DATA REQUIRED

1. All Zone A areas on the FIRM are subject to inundation of the base flood; however, the base flood elevations are not provided. Zone A areas shall be subject to all development provisions of this ordinance. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state, or other sources, including from a study commissioned by the applicant pursuant to best technical practices.
2. Until a floodway has been designated, no development or substantial improvement may be permitted within the floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown in the Flood Insurance Study or on base flood elevation determinations.

4.3.7.F. VARIANCES AND APPEALS. Variance and Appeals Procedures

1. The Board of Zoning Adjustment as established by the City of Gering shall hear and decide appeals and requests for variances from the requirements of this ordinance.
2. The Board of Zoning Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this ordinance.
3. Any person aggrieved by the decision of the Board of Zoning Adjustment or any taxpayer may

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appeal such decision to the District Court as provided in *Nebraska Revised Statutes* Section 19-192.

4. In evaluating such appeals and requests, the Board of Zoning Adjustment shall consider technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
 - a. The danger to life and property due to flooding or erosion damage;
 - b. The danger that materials may be swept onto other lands to the injury of others;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, future owners, and neighboring properties;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity of the facility to have a waterfront location, where applicable;
 - f. The availability of alternative locations that are not subject to flooding or erosion damage for the proposed use;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
 - k. The costs of providing government services during and after flood conditions including emergency management services and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.
5. Conditions for Variances
 - a. Variances shall only be issued upon a showing of good and sufficient cause and also upon a determination that failure to grant the variance would result in an exceptional hardship to the applicant.
 - b. Variances shall only be issued based upon a determination that the granting of a variance will not result in increased flood heights.
 - c. Variances shall only be issued based upon a determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - d. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items E-I below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
 - e. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure on the National Register of Historic Places and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - f. Variances shall not be issued within any designated floodway if any increase in water surface elevations along the floodway profile during the base flood discharge would result.
 - g. Variances shall only be issued upon a determination that the variance is the minimum

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necessary, considering the flood hazard, to afford relief.

- h. The applicant shall be given a written notice over the signature of a community that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and also that such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
- i. All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by the community.

4.3.7.G. ENFORCEMENT

1. Violations. Failure to obtain a floodplain development permit or the failure of a structure or other development to be fully compliant with the provisions of this ordinance shall constitute a violation. A structure or other development without a floodplain development permit, elevation certificate, certification by a licensed professional engineer of compliance with these regulations, or other evidence of compliance is presumed to be in violation until such time as documentation is provided.
2. Notices. When the floodplain administrator or other authorized community representative determines, based on reasonable grounds, that there has been a violation of the provisions of this ordinance, the floodplain administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:
 - a. Be in writing;
 - b. Include an explanation of the alleged violation;
 - c. Allow a reasonable time for the performance of any remedial act required;
 - d. Be served upon the property owner or their agent as the case may require; and
 - e. Contain an outline of remedial actions that, if taken, will bring the development into compliance with the provisions of this ordinance.
3. Penalties
 - a. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person, firm, corporate, or other entity that violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
 - b. The imposition of such fines or penalties for any violation or non-compliance with this ordinance shall not excuse the violation or non-compliance or allow it to continue. All such violations or non-compliant actions shall be remedied within an established and reasonable time.
 - c. Nothing herein contained shall prevent the City of Gering or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

4.3.8 STANDARDS FOR FLOODPLAIN DEVELOPMENT

4.3.8.A. GENERAL PROVISIONS

1. Alteration or Relocation of a Watercourse
 - a. A watercourse or drainway shall not be altered or relocated in any way that in the event of a base flood or more frequent flood will alter the flood carrying characteristics of the watercourse or drainway to the detriment of upstream, downstream, or adjacent locations.

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- b. No alteration or relocation shall be made until all adjacent communities that may be affected by such action and the Nebraska Department of Natural Resources have been notified and all applicable permits obtained. Evidence of such notification shall be submitted to the Federal Emergency Management Agency.
- 2. Encroachments
 - a. When proposing to permit any of the following encroachments, the standards in Section 5.1 (B) (ii) shall apply:
 - i. Any development that will cause a rise in the base flood elevations within the floodway; or
 - ii. Any development in Zones A, A1-30, and Zone AE without a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
 - iii. Alteration or relocation of a stream; then
 - b. The applicant shall:
 - i. Apply to FEMA for conditional approval of such action via the Conditional Letter of Map Revision process (as per Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.12) prior to the permit for the encroachments; and
 - ii. Supply the fully approved package to the floodplain administrator including any required notifications to potentially affected property owners.
- 3. Floodway Overlay District
 - a. Standards for the Floodway Overlay District
 - i. New structures for human habitation are prohibited.
 - ii. All encroachments, including fill, new construction, substantial improvements, and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during the occurrence of the base flood discharge. These developments are also subject to all the standards of Section 5.
 - iii. In Zone A areas, obtain, review, and reasonably utilize any flood elevation and floodway data available through federal, state, or other sources, including studies done under Section 5.3 (H) "Subdivisions", in meeting the standards of this section.
 - b. Only uses having a low flood-damage potential and not obstructing flood flows shall be allowed within the Floodway Overlay District to the extent that they are not prohibited by any other ordinance. The following are recommended uses for the Floodway Overlay District:
 - i. Agricultural uses such as general farming, pasture, nurseries, and forestry
 - ii. Residential uses such as lawns, gardens, parking, and play areas
 - iii. Nonresidential uses such as loading areas, parking, and airport landing strips
 - iv. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, and wildlife and nature preserves.

4.3.8.B. ELEVATION AND FLOODPROOFING REQUIREMENTS

- 1. Residential Structures
 - a. In Zones A, AE, A1-30, and AH, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation.
 - b. In Zone AO, all new construction and substantial improvements shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the FIRM or, if no depth number is

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- specified on the FIRM, at least as high as three (3) feet.
- c. In the floodway, new structures for human habitation are prohibited.
- 2. Nonresidential Structures
 - a. In Zones A, AE, A1-30, and AH, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, floodproofed so that below one (1) foot above the base flood elevation:
 - i. The structure is watertight with walls substantially impermeable to the passage of water and
 - ii. The structure has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - b. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 4.
 - c. In Zone AO, all new construction and substantial improvements shall have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the FIRM or, if no depth number is specified on the FIRM, at least as high as three (3) feet; or, together with attendant utility and sanitary facilities, floodproofed so that below one (1) foot above the base flood elevation:
 - i. The structure is watertight with walls substantially impermeable to the passage of water and
 - ii. The structure has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - d. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 4.
- 3. Space Below Lowest Floor
 - a. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be used solely for the parking of vehicles, building access, or limited storage of readily removable items.
 - b. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a net total area of not less than one (1) square inch for every one (1) square foot of enclosed space,
 - ii. The bottom of all openings shall not be higher than one (1) foot above grade, and
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.
- 4. Appurtenant Structures
 - a. Structures accessory to a principal building may have the lowest floor below one foot above base flood elevation provided that the structure complies with the following requirements:
 - i. The structure shall not be used for human habitation.
 - ii. The use of the structure must be limited to parking of vehicles or storage of items readily removable in the event of a flood warning.
 - iii. The floor area shall not exceed 400 square feet.

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- iv. The structure shall have a low damage potential.
 - v. The structure must be adequately anchored to prevent flotation, collapse, or other lateral movement.
 - vi. The structure shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - 1. A minimum of two openings having a net area of not less than one (1) square inch for every one (1) square foot of enclosed space,
 - 2. The bottom of all openings shall not be higher than one (1) foot above grade, and
 - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.
 - vii. No utilities shall be installed except electrical fixtures in the structure, which must be elevated or floodproofed to one (1) foot above base flood elevation.
 - viii. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
 - ix. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.
5. Manufactured Homes
- a. Require that all manufactured homes to be placed or substantially improved within floodplains on sites:
 - i. Outside of a manufactured home park or subdivision,
 - ii. In a new manufactured home park or subdivision,
 - iii. In an expansion to an existing manufactured home park or subdivision, or
 - iv. In an existing manufactured home park or subdivision on which a manufactured home as incurred substantial damage as the result of a flood,
 - b. Be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this Section.
 - c. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas that are not subject to the provisions of Section 5.2 (D) (b) be elevated so that either:
 - i. The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation, or
 - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 5.2 (E) (iv).
 - d. New manufactured home parks of five (5) acres or fifty (50) lots, whichever is less, shall follow the standards of Section 5.3 (H) "Subdivisions".
 - e. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - i. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;

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- ii. Frame ties be provided at each corner of the manufactured home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
 - iii. Any additions to the manufactured home be similarly anchored.
- 6. Existing Structures
 - a. The provisions of this ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to a structure in the floodplain, a floodplain development permit is required and the provisions of 5.2 (F) (ii-iv) shall apply.
 - b. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure where the costs of which would equal or exceed fifty (50) percent of the pre-improvement market value shall constitute a substantial improvement and shall fully comply with the provisions of this ordinance.
 - c. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure in the floodway shall comply with the provisions of 5.1 (C).
 - d. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure that will change the compliance requirements of the building shall require applicable documentation including an elevation certificate, floodproofing certificate, or no rise certification.

5.3.8.C. DESIGN AND CONSTRUCTION STANDARDS

- 1. Anchoring
 - a. All buildings or structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- 2. Building Materials and Utilities
 - a. All buildings or structures shall be constructed with materials and utility equipment resistant to flood damage. All buildings or structures shall also be constructed by methods and practices that minimize flood and flood-related damages.
 - b. All buildings or structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 3. Drainage
 - a. Within Zones AO and AH, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- 4. Water Supply and Sanitary Sewer Systems
 - a. All new or replacement water supply and sanitary sewer systems shall be located, designed, and constructed to minimize or eliminate flood damages to such systems and the infiltration of floodwaters into the systems.
 - b. All new or replacement sanitary sewage systems shall be designed to minimize or eliminate discharge from the system into floodwaters.
 - c. On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during flooding.
- 5. Other Utilities
 - a. All other utilities such as gas lines, electrical, telephone, and other utilities shall be located and constructed to minimize or eliminate flood damage to such utilities and facilities.
- 6. Storage of Materials

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- a. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
 - b. The storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
7. Recreational Vehicles
- a. Recreational vehicles to be placed on sites within the floodplain shall:
 - i. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use, which shall mean it is on its wheels or jacking system, is attached to the site by only quick-disconnect type utilities and security devices, and no permanently attached additions; or
 - ii. Meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this ordinance.
8. Subdivisions
- a. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall require assurance that:
 - i. All such proposals are consistent with the need to minimize flood damage;
 - ii. All public utilities and facilities such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage;
 - iii. Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - iv. Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, where base flood elevation data are not available, shall be supported by hydrologic and hydraulic analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for Conditional Letters of Map Revision and a Letters of Map Revision.

4.3.9. NONCONFORMING USE

1. A structure or use of a structure or premises that was lawful before the passage or amendment of this ordinance, but that is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
 - a. If such use is discontinued for 36 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the floodplain administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 36 months.
 - b. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, or safety code or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

4.3.10. AMENDMENTS

1. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in federal, state, or local regulations provided, however, that no such action may be take until after a public hearing in relation

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thereto, at which citizens and parties in interest shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Gering. At least ten days shall elapse between the date of this publication and the public hearing.

2. A copy of such amendments will be provided to the Nebraska Department of Natural Resources and the Federal Emergency Management Agency for review and approval before being adopted.

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

1. Appurtenant Structure: shall mean a structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. Also shall be known as "accessory structure."
2. Area of Shallow Flooding: means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
3. Base Flood: means the flood having one (1) percent chance of being equaled or exceeded in any given year.
4. Base Flood Elevation: means the elevation to which floodwaters are expected to rise during the base flood.
5. Basement: means any area of the building having its floor subgrade (below ground level) on all sides.
6. Building: means "structure." See definition for "structure."
7. Development: means any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; or obstructions.
8. Existing Manufactured Home Park or Subdivision: means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.
9. Expansion to an Existing Manufactured Home Park or Subdivision: means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
10. Flood or Flooding: means a general and temporary condition of partial or complete inundation of normally dry land areas.
11. Flood Fringe: is that area of the floodplain, outside of the floodway, that has a one percent chance of flood occurrence in any one year.
12. Flood Insurance Rate Map (FIRM): means an official map of a community, on which the Flood Insurance Study has delineated the special flood hazard area boundaries and the risk premium zones applicable to the community.
13. Flood Insurance Study (FIS): is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.

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14. Floodplain: means any land area susceptible to being inundated by water from any source (see definition of "flooding"). Floodplain includes flood fringe and floodway. Floodplain and special flood hazard area are the same for use by this ordinance.
15. Floodproofing: means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.
16. Floodway or Regulatory Floodway: means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
17. Freeboard: means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.
18. Highest Adjacent Grade: means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
19. Historic Structure: means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.
20. Lowest Floor: means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built or modified so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
21. Manufactured Home: means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
22. Manufactured Home Park or Subdivision: means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
23. New Construction: for floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
24. New Manufactured Home Park or Subdivision: means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
25. Obstruction: means any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (including the alteration or relocation of a watercourse or drainway), channel rectification, bridge,

ARTICLE 4. SPECIAL DISTRICTS

conduit, culvert, building, stored equipment or material, wire, fence, rock, gravel, refuse, fill, or other analogous structure or matter which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry such structure or matter downstream to the damage or detriment of either life or property. Dams designed to store or divert water are not obstructions if permission for the construction thereof is obtained from the Department of Natural Resources pursuant to the Safety of Dams and Reservoirs Act (Nebraska Revised Statutes 46-1601 to 46-1670 as amended).

26. Overlay District: is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.
27. Post-FIRM Structure: means a building that was constructed or substantially improved on or after the community's initial Flood Insurance Rate Map dated February 15, 1979.
28. Pre-FIRM Structure: means a building that was constructed or substantially improved on or before the community's initial Flood Insurance Rate Map dated February 15, 1979.
29. Principally Above Ground: means that at least 51 percent of the actual cash value of the structure is above ground.
30. Recreational Vehicle: means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
31. Regulatory Flood Elevation: means the base flood elevation (BFE) plus a freeboard factor as specified in this ordinance.
32. Special Flood Hazard Area (SFHA): is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.
33. Start of Construction: means the date the floodplain development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. "Start of construction" also includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.
34. Structure: means a walled and roofed building that is principally above ground, as well as a manufactured home and a gas or liquid storage tank that is principally above ground.
35. Subdivision: means the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building or lot development.
36. Substantial Damage: means damage of any origin sustained by a structure whereby the cumulative cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Cumulative costs shall include all costs for

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reconstruction, rehabilitation, or other improvement of the structure to repair damage incurred within 5 years preceding the date of the floodplain development permit.

37. **Substantial Improvement:** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." Cumulative costs shall include all costs for reconstruction, rehabilitation, or other improvement of the structure to repair damage incurred within 5 years preceding the date of the floodplain development permit and shall include any costs resulting from substantial damage.
38. **Variance:** is a grant of relief to an applicant from the requirements of this ordinance that allows construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.
39. **Violation:** means a failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.
40. **Watercourse:** means any depression two feet or more below the surrounding land that serves to give direction to a current of water at least nine months of the year and that has a bed and well-defined banks.

4.4. HSD SCOTTS BLUFF NATIONAL MONUMENT HISTORIC SITE DISTRICT

4.4.1. 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 and supplement and/or supersede (where there is a conflict among regulations) those of the Parent District as applicable to all uses in the HSD Scotts Bluff National Monument Historic Site District.

4.4.2. PERFORMANCE STANDARD MAXIMUM HEIGHT. The height of any structures or sign must not exceed one (1) story in height within the first 150 feet west of the Five Rocks Road 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. Two stories is defined as thirty (30) feet in height.

4.5. WEA WELLHEAD ENCROACHMENT AREA DISTRICT

4.5.1. INTENT. 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 and supplement and/or supersede (where there is a conflict among regulations) those of the Parent District as applicable to all uses in the WEA Wellhead Encroachment Area District.

4.5.2. 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.

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4.5.3. PERFORMANCE STANDARDS. The City of Gering designates a Wellhead Encroachment Area for the purpose of protection of the public water supply system.

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 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.

CATEGORY	DISTANCE Feet
Water Well	1,000
Sewage Lagoon	1,000
Land application of municipal/industrial waste material	1,000
Feedlot or Feedlot Runoff	1,000
Underground disposal system (septic system, cesspool, etc.)	500
Corral	500
Pit Toilet/Vault Toilet	500
Wastewater Holding Tanks	500
Sanitary Landfill/Dump	500
Chemical or Petroleum Product Storage	500
Sewage Treatment Plant	500
Sewage Wet Well	500
Sanitary Sewer Connection	100
Sanitary Sewer Manhole	100
Sanitary Sewer Line	50

NOTE: If the distance requirements in 179 NAC 13 Attachment 2 are not met, the well is subject to testing to determine if it is ground water under the direct influence of surface water. If a well meets that definition, it is treated as a surface water source subject to all the requirements of the rules regarding surface water.

ARTICLE 5. SUPPLEMENTARY REGULATIONS

5.1. BUILDINGS AND STRUCTURES

5.1.1. ACCESSORY BUILDINGS. When the application of the following requirements are in conflict with other setback and separation requirements in the district regulations the more restrictive requirement shall apply.

5.1.1.A. 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.

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

5.1.1.C. 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.

5.1.1.D. 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.

5.1.1.E. 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.

5.1.2. ARCHITECTURAL PROJECTIONS. Architectural projections including covered porches and carports shall not extend more than five (5) feet into any required front or rear yard setback. Such architectural projections including roofs shall not extend into any side yard setback requirements. Any porches or carports totally or partially enclosed with screen windows, permanent construction 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 setback requirements of the principal structure.

5.1.2.A. 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.

5.1.3 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 these regulations shall be met for each structure as though it were on an individual lot.

5.1.4 EXCEPTIONS TO HEIGHT REGULATIONS. The height limitations contained in these regulations 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.

5.1.5 STRUCTURES TO HAVE ACCESS. Every building hereafter erected or moved with the exception of non-residential agricultural related structures in an agricultural district, shall be on a lot

ARTICLE 5. SUPPLEMENTARY REGULATIONS

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.

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

5.2 LOT AND SITE CONDITIONS

5.2.1 ADJUSTMENTS TO FRONT YARD REQUIREMENTS. In the case of rehabilitation / remodeling / retrofitting / adding to existing structures with a front yard setback different than the required setback, the required front yard setback may be modified to correspond with the setback established by the existing structure and/or by the predominate setback established by the existing buildings on the block face. Such modification is intended to reinforce the existing character of the established neighborhood and may not create a situation that would adversely affect the rights of adjacent property owners or residents, or adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. Such required front yard setback may also be modified in the same manner for a new structure in an established neighborhood.

5.2.2 VISIBILITY AT INTERSECTIONS. On a corner lot in all districts, except C-2, a sight triangle shall be provided such that nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (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 to 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.

5.3 USES

5.3.1 ACCESSORY USES

5.3.1.A CARETAKER'S QUARTERS. Caretaker's quarters are permitted in all districts as an accessory use, if included in the principal structure, providing said use is incidental to the principal use.

5.3.1.B DWELLING. Accessory structures shall not be used for dwelling purposes unless specifically permitted as part of an approved development plan per Section 2.2.4.

5.3.2-FEEDLOTS

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

5.3.3 HOME OCCUPATIONS

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

ARTICLE 5. SUPPLEMENTARY REGULATIONS

the cessation of the home occupation or if the home occupation is found to be in violation of the standards in this Section or any other applicable city, state or federal regulations. 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. 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 any building which changes its character of the building.
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 forty-nine (49) percent of the total building 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 any 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. Home based day care operations may have permanent play equipment such as slides and swing sets located in the required side or rear yards. All home based day care operations must comply with all state statutes and regulations pertaining to them.

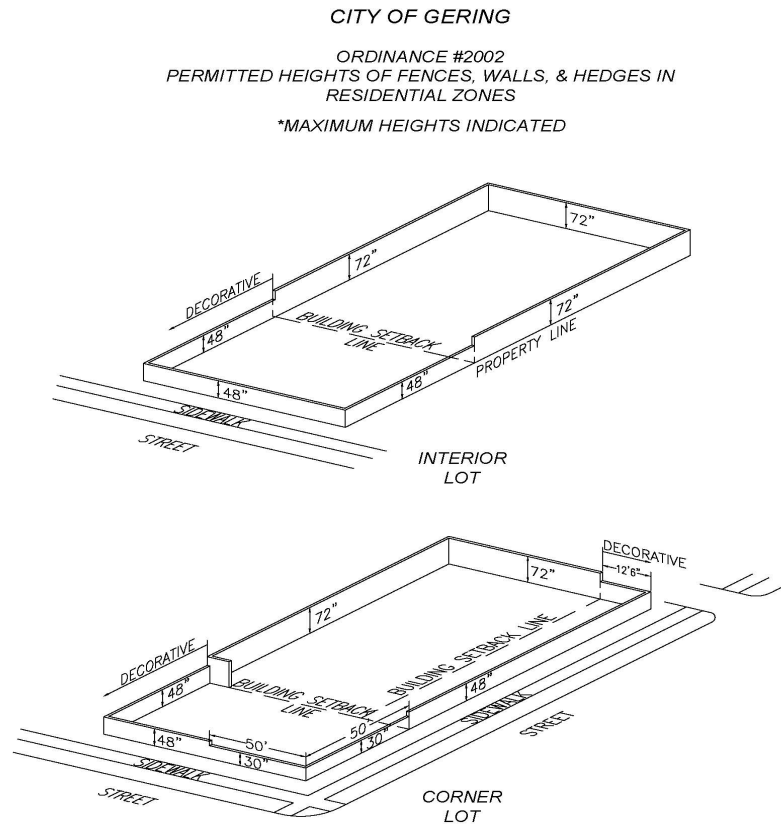
5.4 FENCES, WALLS AND HEDGES. Except as otherwise specifically provided in these regulations or in other codes and regulations, the following regulations shall apply to the construction of fences, walls and hedges:

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.

ARTICLE 5. SUPPLEMENTARY REGULATIONS

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.
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:
 - 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-eight (48) inches measured from the average grade of the ground, measured within eighteen (18) inches on either side of the fence, wall, or hedge; provided the corner triangular site distance is maintained per Section 5.2.2. of these regulations with the maximum height of the fence being thirty (30) inches measured from the front corner property line point of intersection. 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.
5. 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 or use 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 or use and the residential zone.
6. 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.
7. 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.
8. No barbed wire, other sharp pointed, or electrically charged fence may be constructed or maintained.
9. The building inspector may order any dilapidated or dangerous fence to be removed or repaired.
10. 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.
11. Drawing is incorporated into this Zoning Ordinance for reference. Section 10/1: Visibility at Intersections, is incorporated for corner lots.

ARTICLE 5. SUPPLEMENTARY REGULATIONS



5.5 LANDSCAPING AND SCREENING STANDARDS

5.5.1 INTENT. 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.

5.5.2 APPLICABILITY. The provisions of this section shall apply to all new development on each lot or site upon application for a building permit.

5.5.3 LANDSCAPING REQUIREMENTS. Landscaping shall be required adjacent to each street property line as set forth in Table 5.5.1.

5.5.4 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.

ARTICLE 5. SUPPLEMENTARY REGULATIONS

5.5.5 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 5.5.2. 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 5.5.2 apply to zoning districts which share a common lot line or are adjacent but separated by an intervening alley.
2. When a street separates adjacent zoning districts requiring a bufferyard, no bufferyard is required. Applicable setback and landscaping requirements will apply in these cases.
3. Each required bufferyard must be entirely landscaped and free of paved areas, access ways, storage, or other disturbances.

Table 5.5.1: Required Landscape Depth

Zoning District	Depth of Landscaping Adjacent to Street Property Line Including Expressway
C-1	10 feet
C-2	10 feet
ML	10 feet
MH	10 feet
RR	10 feet

Table 5.5.2: Bufferyard Requirements (Feet)

		DISTRICT B (Less Intensive Adjacent District)						
		AG	RR (Note 1)	RL (Note 1)	RM (Note 1)	RH	C-3	ML
DISTRICT A More Intensive District (Note 3)	C-1	10'	10'	10'	10'	10'	---	---
	C-2	10'	10'	10'	10'	10'	---	---
	C-3	15'	15'	15'	15'	15'	---	---
	ML	15'	15'	15'	15'	15'	10'	---
	MH	15'	15'	15'	15'	15'	10'	10'

Notes to Table 5.5.2:

Note 1: Applies to residential uses previously established in the zoning district.

Note 2: Vertical screening only is required as set forth in Section 5.5.6.

Note 3: Buffer requirements do not apply to single-family, duplex or townhouse residential uses established in District A.

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5.5.6 SCREENING STANDARDS

1. Application: Screening is required between adjacent zoning districts indicated in Table 5.5.2 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. Screening Method: A six-foot opaque barrier shall be provided which visually screens the conditions listed in Section 5.5.6 (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: Any screening method shall be installed within the required bufferyard or in close proximity of items listed in this section (1 a-f above) so as to block direct visibility from adjacent uses and public visibility from public areas (e.g. parks, roads, trails, etc.).
4. 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 Zoning Administrator 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.

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.

5.5.7 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.

5.5.8 GENERAL PROVISIONS

1. Time of Application: The provisions contained in Section 5.5 shall be applied for each new construction / development or substantial remodel or redevelopment on the individual lot or site when an application for a building permit on such lot or site is made. When a substantial remodel or redevelopment project, the cost of which exceeds \$100,000.00 based upon the building permit issued by the City of Gering, upon property that does not then meet the requirements of Section 5.5 the property owner or occupant will be required to spend 3% of any substantial remodel or redevelopment project toward bringing the property and landscaping up to the development standards in Section 5.5.

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Once the property and landscaping meet the requirements of this section, the property owner or occupant will no longer have to spend a portion of the remodel or redevelopment project to make improvements in order to comply with this section. In addition, if the property owner or occupant is able to show they are unable to bring the property into compliance because of the property's topography or features, then the property owner or occupant may appear before the Planning Commission to explain why they cannot comply. If the Planning Commission finds the property owner or occupants are unable to comply with the requirements of this section for the reasons stated above, then it may excuse the property owner or occupant from attempting to comply and instead allow them to pay an amount equal to 3% of their project directly to the City for use by the City on streetscape improvement projects along arterial roadways or other City improvements to public parks or trails.

Maintenance of Required Landscaping: Upon installation of required landscape materials, each owner shall take appropriate actions to ensure their continued health and maintenance.

2. **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.
3. **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.
4. **Exceptions:** A development shall 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.
5. **Performance Guarantee:** A performance guarantee (e.g. performance bond, letter of credit, etc.) will be required in the event a certificate of occupancy is issued prior to installation of all required landscaping.
6. In-ground sprinkling and/or drip irrigation systems are to be installed in all required landscape areas.

5.6 PARKING REGULATIONS

5.6.1 VEHICLE PARKING RATES. Table 5.6.1, Required Parking, provides general minimum requirements for rates of all similar uses. Where the classification of the use is not determinable from the table, the Zoning Administrator shall determine the appropriate classification based on industry guides and the most similar use in terms of scale, function and operation. The following criteria shall be used in interpreting the table:

1. A rate based on employees shall consider maximum number of employees likely to be on-site at one time.
2. A rate based on square footage shall consider the service area open to the public or patrons, or leasable floor area. Where this number is not easily or readily determined, 85 percent of gross floor area may be used.
3. A rate based on seating shall consider total number of seats based on industry standards for typical layouts of buildings.
4. A rate based on capacity shall be the maximum permitted under public safety and building codes.
5. Where uses or sites have components of different uses (i.e., hotel with a restaurant), each component shall be calculated under most applicable rate.

Table 5.6.1: Required Parking

Residential

Detached House; Duplex	2 per dwelling unit
Row House, Apartments, etc.	1.5 per dwelling unit
Accessory Dwelling Unit	1 per dwelling unit
Group Living	0.5 per bed/room; AND 1 per employee

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Civic/Institutional	
Generally	2.5 per 1,000 s.f. 1 per 1,000 s.f.; AND 1 per classroom
Schools	OR 1 per 3 seats of any assembly area (whichever is greater)
Assembly	1 per 4 seats
Hospital/Institutional Living	0.5 per room; AND 1 per 2 employees
Outdoor Recreation	1 per 10,000 s.f. passive; 1 per 1,000 s.f. active/programmed; 1 per 5 seats for any venues
Commercial	
General Retail	1 – 2,000 s.f. = 2.5 per 1,000 s.f.
	2,001 – 25,000 s.f. = 5 per 1,000 s.f.
	25,001 or more s.f. = 4 per 1,000 s.f.
Convenience Store/Gas Station	5 per 1,000 s.f.
Outdoor Sales	1 per 1,000 s.f.
Service/Office	3 per 1000 s.f.
Barber/Beauty	2 per seat/service stall
Live/Work	3 per unit
Lodging	1 per room
Entertainment Venue/Theater	1 per 4 seats
Mortuary/Funeral Home	1 per 3 seats
Fitness/Exercise Studio	1 per 3 persons occupancy
Medical/Dental Office/Clinic	5 per 1,000 s.f.
Athletic Club/Sports Complex	2.5 per 1,000 s.f.; AND 1 per 5 seats for any venue
Bowling Alley	2.5 per lane; AND 2 per 1,000 s.f. for ancillary entertainment areas
Restaurant, General	1 per 3 seats
Bar/Tavern	5 per 1,000 s.f.
Veterinary Clinic/Hospital	1.5 per 1,000 s.f.
Bank	3 per 1,000 s.f.
Industrial	
Generally	2 per 1,000 s.f for any customer service area; AND 0.75 per employee

5.6.2 MAXIMUM PARKING. No use shall provide greater than 20 percent more than the minimum required parking without documented evidence of actual parking demand based on studies of similar uses in similar contexts. In addition, any parking permitted over 20 percent shall require mitigating potential impacts of more parking through one or more of the following strategies:

1. Provide shared parking for other uses on the block or adjacent blocks according to subsection (D) of this section.

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2. Design all parking areas over the minimum as dual purpose space, such as plazas, playgrounds, or event areas for regular use of the space during nonpeak times.
3. Use alternative surface areas designed to infiltrate stormwater.
4. Provide additional buffers and site open spaces to screen parking or provide more active usable outdoor spaces for people in relation to the streetscape, of at least a 10 percent increase in the open space or buffers and at least a 20 percent increase in the amount of landscape material required for the parking.

5.6.3 PARKING REDUCTIONS. The parking required by Table 5.6.1 may be reduced depending on context, and according to the following strategies:

1. **Downtown / Neighborhood Commercial.** In the C-1 and C-2 districts, any use under 2,000 square feet is exempt from any on-site parking. All other uses in the C-1 and C-2 districts may reduce the required on-site parking by 40 percent, in addition to all other applicable credits and shared parking reductions.
2. **On-Street Parking Credit.** All on-street parking within 600 feet of any lot frontage shall count towards the parking requirement at a rate of one space for every three on-street spaces.
3. **Bicycle Parking Credit.** All properly designed and located on-site bicycle parking may reduce the required vehicle parking at a rate of one space for every four bicycle parking spaces up to a maximum of 15 percent of the required vehicle parking.
4. **Public Parking Credit.** Any site within 600 feet of a public parking area may reduce the required vehicle parking at a rate of one space for every two public parking spaces.
5. **Deferral of Parking Space Requirements.** A portion of the required parking may remain unimproved until it is necessary to adequately serve parking demand. The Planning Commission or City Council, whichever is charged with granting final approval, shall determine that the initial occupancy of the premises will be adequately served by the lesser number of spaces and a site plan shall indicate the location, pattern and circulation to and from the deferred parking spaces. Any approved deferral shall specifically indicate what event will trigger the construction of the deferred parking. The area reserved for future parking shall be brought to finished grade and shall be landscaped, and it shall not be used for any permanent purpose or structure unless a revised site plan and parking plan is approved.

5.6.4 SHARED PARKING. Required parking may be reduced for any site containing multiple uses or for adjacent sites with different uses according to Table 5.6.2: Shared Parking. Any shared parking arrangement shall require an agreement among all landowners participating in the agreement to ensure access, joint use, maintenance, and other operational issues. A reduction program that differs from Table 5.6.2 may also be approved in association with the agreement upon preparation of the joint parking study for the sites and uses.

Table 5.6.2: Shared Parking

Percentage of Required Parking by Time Period					
Use	Weekday		Weekend		All
	6 a.m. to 5 p.m.	5 p.m. to 1 a.m.	6 a.m. to 5 p.m.	5 p.m. to 1 a.m.	1 a.m. to 6 a.m.
Employment	100%	10%	5%	5%	5%
Retail or Service	75%	75%	100%	90%	5%
Restaurant	50%	100%	75%	100%	25%
Entertainment and Recreation	30%	100%	75%	100%	5%
Church	5%	25%	100%	50%	5%

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Table 5.6.2: Shared Parking

Percentage of Required Parking by Time Period					
Use	Weekday		Weekend		All
	6 a.m. to 5 p.m.	5 p.m. to 1 a.m.	6 a.m. to 5 p.m.	5 p.m. to 1 a.m.	1 a.m. to 6 a.m.
School	100%	10%	10%	10%	5%
Dwellings	25%	90%	50%	90%	100%
Lodging	50%	90%	75%	100%	100%

5.7 PLANNED DEVELOPMENT TYPES

5.7.1 MIXED-USE. Mixed-use development is the intentional grouping of various commercial retail, office and/or residential uses by design within a planned development area approved by the City via the development plan review process (Section 2.2.4). A mixed-use development may be made up of solely residential uses with a variety of housing types (e.g. townhomes, single-family residences – attached and detached; apartments; etc.). The approval of a development plan for a mixed-use development project is effectively a rezoning of the property within the proposed project development area to an MUP (Mixed-Use Planned) District designation, with a case located number, to be reflected on the official zoning map. The approved plan serves as the regulating document for the allowed land uses, design features and development patterns within the mixed-use development. Additionally, the review of the development plan by City staff, Planning Commission and City Council shall take into consideration the applicable factors in Section 2.2.1.B.ii. of these regulations.

5.7.2 MOBILE / MANUFACTURED HOMES.

5.7.2.A. TEMPORARY PLACEMENT ON INDIVIDUAL LOT / PARCEL. Notwithstanding the provisions of the district regulations of this Ordinance, no mobile / manufactured home shall be parked and occupied in any district outside an approved mobile / manufactured 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 / manufactured home on land owned by the owner of said mobile / manufactured home during:

1. the construction of a house thereon;
2. 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
3. a period of illness or physical disability necessitating special facilities for care of the occupant or
4. for the purposes of providing security for the property on a temporary basis, or
5. for any cause created by conditions pertaining to the police, health or welfare of the community generally.

Such permit shall 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 / manufactured home is being parked on the site waiting to be placed on and connected to a permanent foundation, the mobile homeowner does not originally need a permit. After thirty (30) days, if the mobile / manufactured home has not been placed on and connected to a permanent foundation, a permit must be acquired in accordance with this section.

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5.7.2.B. PERMANENT PLACEMENT ON INDIVIDUAL LOT / PARCEL. Mobile / manufactured homes may be permanently placed on individual lots / parcels outside of a mobile / manufactured home park in compliance with receiving the appropriate permit(s) and meeting the following design criteria:

1. The roof must be double-pitched and have a vertical rise of 3.0 feet for each 12 feet of horizontal run, and covered with material that is residential in appearance, including, but not limited to, approved wood, asphalt composition shingles or fiberglass, but excluding corrugated aluminum, corrugated fiberglass or metal roof.
2. Exterior siding cannot have a high-gloss finish and must be residential in appearance, including, but not limited to, clapboards, simulated clapboards such as conventional vinyl or metal siding, wood shingles, shakes, or similar material, but excluding smooth, ribbed, or corrugated metal or plastic panels.
3. The home must be placed on a permanent foundation that complies with the city building code for residential structures.
4. The hitch, axles, and wheels must be removed.
5. The unit must be oriented on the lot so that its long axis is parallel with the street. A perpendicular or diagonal placement may be permitted if there is a building addition or substantial landscaping so that the narrow dimension of the unit, as so modified and facing the street, is no less than 50% of the unit's long dimension.
6. The lot improvements including driveways, yard areas and landscaping must be made in a manner that complies with applicable regulations to ensure compatibility with surrounding properties.
7. The home must be at least 24 feet in width, and at least 40 feet in length, not including overhang, and shall contain at least 960 square feet of living space exclusive of basements, open or screened porches and garages.
8. All fuel supply systems shall be constructed and installed in compliance with all applicable building and safety codes. Bottled gas tanks may be permitted only if gas service is not available on the nearest street and installation shall be in compliance with NFPA 58. Connection is to be made as soon as the gas service is available on the nearest street.
9. A garage is required. The external material and roofing of the garage must be of a comparable material as that of the dwelling unit.

5.7.3 MOBILE / MANUFACTURED HOME PARKS. A mobile home park may be established in specified zoning districts, provided that a development plan (Section 2.2.4) for the proposed mobile / manufactured home park has been approved by the City and meets all of the following requirements:

1. Certification of compliance with all ordinances and regulations regarding mobile / manufactured home park licensing, and zoning, health, plumbing, electrical, building, fire prevention and all other applicable ordinances and regulations.
2. Individual mobile / manufactured home lots shall have an area of not less than five thousand (5,000) square feet for single wide mobile / manufactured 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 / manufactured 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 / manufactured home park shall have an area of not less than two (2) acres or more than ten (10) acres and no mobile / manufactured 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 development plan reviewed and approved by the City shall set forth the location and legal description of the proposed mobile / manufactured home parking property, and a sketch of the

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proposed mobile / manufactured home park, showing dimensions, driveways, proposed locations of mobile / manufactured homes, the location of sanitary, conveniences and other buildings and improvements.

7. The area of the mobile / manufactured home or trailer stand shall be improved to provide an adequate and approved foundation for the placement and tie-down of the mobile / manufactured home or trailer, thereby securing the super-structure against uplift, sliding, rotation or overturning. The mobile / manufactured home or trailer stand shall be on incombustible materials and shall not shift or settle unevenly under the weight of the mobile / manufactured home or trailer due to frost action, inadequate drainage, vibration or other forces acting upon the super-structure. The mobile / manufactured 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 / manufactured home or trailer. Such blocking shall be provided along the full length of the mobile / manufactured 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 / manufactured 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 / manufactured home or trailer. The tie-down devices shall be compatible with the foundation system provided for the mobile / manufactured 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 / manufactured homes and trailers is required. Such skirting shall not attach a mobile / manufactured 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 / Manufactured Home Parks shall be complete in accord with Section 5-4-2 and 5-4-3 of the Gering City Code.

5.7.4 RECREATIONAL VEHICLE PARKS AND CAMPGROUNDS. A recreational vehicle park or campground may be established in specified districts provided that a development plan (Section 2.2.4) for the proposed recreational vehicle park or campground has been approved by the City and meets all the following requirements:

1. A recreational vehicle park or campground shall have an area of not less than one (1) acre, and no recreation vehicle spot, 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 recreational vehicle park or 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;
4. Individual recreational vehicle spots and 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 recreational vehicle park or campground shall be such that there is minimal disturbance of the natural vegetation and topography of the area is minimized;
7. A development plan reviewed and approved by the City shall set forth the location and legal description of the proposed recreational vehicle park or campground property and include a layout of

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the proposed recreational vehicle park or campground showing dimensions, roads, parking stations, location of services and any other buildings or improvements.

5.7.5 TINY HOMES AND TINY HOME COMMUNITIES. It is the intent of this section to allow housing meeting certain qualifications to be located upon lots that are developed as part of planned tiny home community. Such accommodation provides wider housing stock choices for citizens. Tiny homes must be located in a planned tiny home community, no less than 2 acres in size, approved by the City via the planned development process in Section 2.2.4 of these regulations. Tiny home communities are permitted in the RH Residential High-Density District. All tiny homes must meet all of the following requirements:

1. Be complete dwelling units containing a kitchen, sanitary and sleeping facilities within the unit, for the exclusive use of a single-family maintaining a household.
2. Be permanently attached on a City-approved foundation.
3. Comply with the height and yard requirements of the RH district.
4. Maximum lot coverage of 40%.
5. Comply with the City-adopted building code.
6. Minimum structure size:
 - a. 170 sq. ft. for one occupant
 - b. 100 sq. ft. for each additional occupant
 - c. 8.5 foot width

5.8 SATELLITE / WIRELESS COMMUNICATIONS

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

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

1. Antenna: shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.
2. Antenna Support Structure: shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.
3. Applicant: shall mean any person that applies for a Tower Development Permit.
4. Application: shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the City submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the City concerning such request.

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5. Conforming Commercial Earth Station: shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this ordinance.
6. Engineer: shall mean any engineer qualified and licensed by any state or territory of the United States of America.
7. Owner: shall mean any person with a fee simple title or a leasehold exceeding 10 years in duration to any tract of land within the zoning jurisdiction of the City who desires to develop, construct, modify, or operate a tower upon such tract of land.
8. Person: shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
9. Satellite Dish Antenna: shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.
10. Stealth: shall mean any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.
11. Telecommunications Facilities: shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
 - a. Any Conforming Commercial Earth Station antenna two meters or less in diameter which is located on real estate zoned TA, RE, MUC, HC, GC, I-1 or I-2.
 - b. Any earth station antenna or satellite dish antenna of one meter or less in diameter, regardless of zoning applicable to the location of the antenna.
12. Tower: shall mean a self-supporting lattice, guyed, or monopole structure which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
13. Tower Development Permit: shall mean a permit issued by the City upon recommendation of the Planning Commission and approval by the City Council of an application to develop a tower within the zoning jurisdiction of the City; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permit's duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest. A tower development permit shall follow the same procedure as a conditional use permit and be administered the same.
14. Tower Owner: shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

5.8.3. LOCATION OF TOWERS AND CONSTRUCTION STANDARDS

1. Towers shall be permitted by conditional use permit.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Tower Development Permit by the City Council and issuance of the permit by the City. Applicants shall submit their application for a Tower Development Permit to the Zoning Administrator / Building Inspector and shall pay a filing fee.
3. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the City after the effective date of these regulations shall conform to the Building Codes and all other construction standards set forth by the City, County, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of

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a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Zoning Administrator / Building Inspector.

5.8.4 APPLICATION TO DEVELOP A TOWER. Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator / Building Inspector for a Tower Development Permit and shall include the following:

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

5.8.5 TOWER DEVELOPMENT PERMIT PROCEDURE. After receipt of an application for a Tower Development Permit, the City shall schedule a public hearing before the Planning Commission, following all Statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the City Council. Upon the completion of the Planning Commission Public Hearing the City shall schedule a public hearing before the City Council, following all Statutory requirements for publication and notice, to consider such application and the recommendation of the City Planning Commission. Notice, for each Public Hearing, shall be made at least one time and at least 10 days prior to such hearing. In addition, the City shall cause a notice to be posted in a conspicuous place on the property on which action is pending. The Planning Commission and City Council may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and / or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

5.8.6 SETBACKS AND SEPARATION OR BUFFER REQUIREMENTS.

1. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be setback one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications

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facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.

2. Towers exceeding 100 feet in height must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.
3. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of 100 percent of the height of the tower.
4. Towers must meet the following minimum separation requirements from other towers:
 - a. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
 - b. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.

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

5.8.8 ILLUMINATION AND SECURITY FENCES

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

5.8.9 EXTERIOR FINISH. Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Zoning Administrator / Building Inspector as part of the application approval process. All towers, which must be approved as a conditional use, shall be stealth design unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.

5.8.10 LANDSCAPING. All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the City.

5.8.11 MAINTENANCE, REPAIR OR MODIFICATION OF EXISTING TOWERS. All towers constructed or under construction on the date of approval of this ordinance may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Non-conforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this ordinance shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the City Council, an exemption from compliance as a condition of the Tower Development Permit.

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5.8.12 INSPECTIONS. The City reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the City's Building Codes and any other construction standards set forth by the City, federal and state law or applicable ANSI standards. Inspections shall be made by either the Building Inspector, or a duly appointed independent representative of the City.

5.8.13 MAINTENANCE. Towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.

5.8.14 ABANDONMENT. If any tower shall cease to be used for a period of one year, the Building Inspector shall notify the tower owner that the site will be subject to determination of abandonment. Upon issuance of written notice to show cause by the Building Inspector, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Building Inspector shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Building Inspector, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and City of Gering codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

5.8.15 SATELLITE DISH ANTENNAS, REGULATION. Upon adoption of this ordinance, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of the City of Gering only upon compliance with the following criteria and the issuance of a permit:

1. In residentially zoned districts, satellite dish antennas may not exceed a diameter of 10 feet.
2. Single family residences may not have more than one satellite dish antenna over 3 feet in diameter.
3. Multiple family residences with 10 or less dwelling units may have no more than one satellite dish antenna over three feet in diameter. Multiple family residences with more than 10 dwelling units may have no more than two satellite dish antennas over three feet in diameter.
4. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.
5. All satellite dish antennas installed within the zoning jurisdiction of Gering, upon adoption of this ordinance, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

5.8.16 AMATEUR RADIO TOWERS AND FACILITIES REGULATION. All amateur radio antennas, towers, and associated facilities not in compliance with the provisions for accessory structures within individual zoning districts shall comply with the standards of Section 5.8.

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

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5.9 SIGN REGULATIONS

5.9.1 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.

5.9.2 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. 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.
3. 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.
4. One Home Occupation sign not exceeding two (2) square feet in area, which is non-illuminated, non-animated and mounted flat against the wall of the principal building associated with an active home occupation is allowed.

5.9.3 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;
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.

5.9.4 CENTRAL BUSINESS DISTRICT. All signs proposed for the C-2 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

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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, wall and projecting signs shall not extend over more than 2/3 of the sidewalk adjacent to the building.
2. The gross area of all signs for a single property shall not exceed three (3) square feet for each lineal front street foot or 300 square feet, whichever number is smaller. Such signs 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 not exceed twenty (20) feet in height from mean curb level.
3. 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.
4. No moving or flashing signs are permitted. Except for electronic animated message signs under the following conditions:
 - a. The message area of the panel must be oriented toward a local thoroughfare street or highway and shall not be readily visible from any existing residence within a 300-foot radius of the sign.
 - b. The mode of operation for the panel display shall be limited to the fade in/fade out mode where a message appears on the sign, is dissolved or turned off, and another message takes its place, not to exceed a change of message or animated image more than six per minute. The display area of the panel shall not be operated to attract the attention of viewers through flashing displays.
 - c. The proposed message panel will not degrade traffic safety given its size, height, color, brightness, mode of operation and its relationship to surrounding traffic patterns, speeds and roadway geometrics.
 - d. The proposed message panel shall be designed as an integral part of a larger sign package for the principal land use of the parcel.
 - e. No portion of the animation or electronic message panel shall exceed the height limit for the sign in the subject district, or 20 feet in height above the average elevation of the surrounding grade, whichever is less.
 - f. Animated signs permitted by the provisions of this section shall comply with all other sign requirements.
5. Murals are permitted if provisions are made for their maintenance and if they comply with the sign size requirements of this section.
6. Free standing and pole signs are not to extend over 2/3 of the public right-of-way adjacent to property line. (This is interpreted as 2/3 of the public right-of-way left after deducting the street to the curb line.)
7. 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.
8. No trailer mounted or portable signs are allowed.

5.9.5 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.

5.9.5.1 PERMANENT SIGNS EXEMPT

1. Address signs (as required).
2. Directional or instructional signs, located on-site, which provide internal direction or instruction to guide persons.
3. Flags. That are:
 - a. Not exceeding 40 square feet in area;

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- b. On a maximum pole height of thirty-five (35) feet, or not more than ten (10) feet above the roofline of the primary building, whichever is less;
 - c. Not located in such a way as to intentionally attract the attention of the public for commercial purposes; and
 - d. Flown on poles with a maximum of three (3) poles per property, no more than one (1) of which may be a corporate or business flag. Corporate or business flag measurements shall be included within the maximum sign area total.
4. Governmental signs for control of traffic, wayfinding and other regulatory purposes and signs of public service companies indicating danger and aids to service or safety.
 5. 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.

5.9.5.2 TEMPORARY SIGNS EXEMPT

1. Construction project signs. 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.
2. 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.
3. 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) weeks prior to a primary or general election, and shall be removed no more than five (5) days following the election.
4. 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.
5. Special 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 5.9.3.

5.9.6 PROHIBITED SIGNS. It shall be a violation of these regulations to erect, install, place or maintain the following signs and attraction getting devices:

1. Architectural light banding/wrapping (visibly exposed light source).
2. Attention-attracting devices:
 - a. Using lights or illuminations (including spotlights and searchlights) that flash, move, rotate, scintillate, blink, flicker or vary in intensity or color;
 - b. That are of such intensity or brilliance as to cause glare or impair the vision of motorists, cyclists or pedestrians;
 - c. That have animated parts intended to attract the attention of the public;
 - d. That are inflatable or emit sound or smoke.
3. Banners / Pennant / Streamers, except as a temporary sign associated with a temporary event or activity and used only during the event or activity.
4. Changeable copy signs without locked vandal proof covers.

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5. Illuminated / Animated signs using methods such as flashing, blinking, oscillating, rotating, or intermittent turning on-and-off of any illuminating device (except as noted in Section 5.9.4).
6. Portable signs designed to be temporarily placed upon the ground or a structure, and not otherwise affixed to it, having the capability of being readily moved from one location to another including:
 - a. Signs mounted on a trailer, with or without wheels.
 - b. A-frame or sandwich board signs (except such signs may be allowed in the C-1 or C-2 zoning districts).
 - c. Umbrellas used for advertising.
 - d. Inflatable signs.
 - e. Vehicle. Any such sign shall be in violation of this article if the vehicle is parked in the same location, easily viewable from a public right-of-way for more than three (3) consecutive days or the sign is otherwise determined by the city to be a blatant attempt to circumvent this article. Such determinations shall be based upon considerations including, but not limited to size, location, persistence, and attention-attracting methods.
7. Roof signs.
8. Signs posing traffic or pedestrian hazards.
9. Snipe signs - signs attached to any public utility pole or structure, street tree, fence, fire hydrant, bridge, curb, sidewalk, park bench or other location on public property except those placed by agencies of the federal, state or local government.
10. Wall mounted signs (extending beyond the top any wall or façade except as noted in Section 5.9.4).
11. Window displays/signs (exterior).
12. Other signs:
 - a. Not specifically exempt or permitted. Any signs or advertising structures which are not specifically exempt or permitted in these sign regulations.
 - b. Signs without valid permits. It shall be unlawful to construct or maintain a sign or sign structure without a valid permit unless otherwise exempted under section 14.04.007.
 - c. Noncompliance. Any other sign that does not comply with the terms, conditions or provisions of these sign regulations.
 - d. Obstruction of egress, openings, ventilation. A sign shall not be erected, constructed, or maintained so as to obstruct any fire escape, window, door or other opening or path of ingress and/or egress, or so as to prevent free passage from one part thereof. A sign shall not be attached in any form, shape, or manner to a fire escape, nor be so placed as to interfere with an opening which is required for legal ventilation.

5.9.7 DEVELOPMENT IDENTIFICATION SIGNS. Certain types of development involve multiple property owners or tenants. Such developments typically desire a location name / identification sign which may or may not incorporate the names of entities located in the development. Applications for a development identification sign (i.e. subdivision entry sign, office / business / industrial park entry sign, shopping center 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.

5.10 SOLAR ENERGY SYSTEMS

It is the purpose of this regulations to promote the safe, effective and efficient use of solar energy. No solar panel shall be constructed within zoning jurisdiction unless a permit is approved and issued by the Zoning Administrator and such panel is constructed in conformance with applicable building codes and the following requirements. For those devices that include electrical, plumbing and heating components, the applicable permits shall also be obtained.

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5.10.1 SOLAR ENERGY SYSTEMS LESS THAN 25 KW. Solar energy systems less than 25 kW shall be permitted as an Accessory Use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met:

1. A description of the project including: Generating capacity, agreement and means of interconnecting with the electrical grid unless not connected to electrical grid.
2. Site layout, including the location of property lines, solar panels, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
3. Solar panels shall conform to the required front, side and rear lot setback requirements except as provided herein:
 - a. A solar panel which is attached to an integral part of the principal building may project two feet into the front yard; six feet into the rear yard; and two feet into the side yard.
 - b. A solar panel which is freestanding shall be located only in the required rear or side yard provided it does not exceed 12 feet in height and not closer than five foot to any existing easement as measured from the closest point of the structure including its foundation and anchorage's nor shall the solar panel be located in the required front yard.
 - c. The physical structure and connections to existing structures shall conform to the applicable state building and electrical codes.
 - d. Comply with any and/or all State and Federal regulations if applicable.
4. Compliance with National Electrical Code: Permit applications for solar energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

5.10.2 SOLAR ENERGY 25 KW OR LARGER. Commercial/Utility Grade solar energy systems shall only be permitted as a Conditional Use within any district where the use is listed and allowed. The following requirements and information shall be met and supplied and no later than 30 days prior to construction:

1. The name(s) of project applicant.
2. The name of the project owner.
3. The Legal Description and address of the project.
4. A description of the project including: number, type, nameplate generating capacity, agreement and means of interconnecting with the electrical grid.
5. Site layout, including the location of property lines, easements, wetlands, protected areas, solar panels, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale and in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
6. Certification by an Engineer competent in disciplines of solar energy.
7. Documentation of land ownership or legal control of the property.
8. Location of wetlands, designated scenic area, and natural areas within 1,320 feet of the proposed solar panels(s)
9. Vegetation management plan dealing with over-growth and soil stabilization.
10. The applicant shall supply the local Fire Department with a basic emergency response plan and a map showing all shut offs, disconnects, valves, etc.
11. Evidence provided by Engineer / Architect, or equivalent that there will be no inference with any commercial and/or public safety communication towers.
12. All solar panels shall adhere to the setbacks as measured from centerline of solar panel established in the following table.

	Solar Panels
Property Lines	150 Feet
Neighboring Dwelling Units*	1320 Feet
Road Rights-of-Way**	150 Feet

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Other Rights-of-Way	150 Feet
Wildlife Management Areas and State Recreational Areas	1320 Feet
Wetlands, USFW Types III, IV, and V	1320 Feet
Other structures and cemeteries adjacent to the applicant's sites	150 Feet

* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility solar energy system.

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

13. Preexisting solar panels: Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to the adoption of these regulations may continue to be utilized so long as it is continuously maintained in operational condition.
14. Proof of Liability insurance and/or bond.
15. A decommissioning plan including the financial means to implement the plan.
16. Aggregated Projects:
 - a. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
 - b. Permits may be issued and recorded separately.
 - c. Joint projects will be assessed fees as one project.

5.10.3 SPECIAL SAFETY AND DESIGN STANDARDS. All Solar Energy Systems shall adhere to the following safety and design standards:

1. All solar energy systems 25 kW or Larger shall have an illuminated sign or signs posted, 911 address, warning of "high voltage" and have other emergency contact information. All other signage shall comply with the sign regulation found in these regulations.
2. All structures, building, components, etc. shall be natural or non-obtrusive in color.
3. Feeder Lines: All communications and feeder lines associated with the project distribution system installed as part of the solar energy system shall be buried, where physically feasible. Where obstacles to the buried lines create a need to go above ground, these lines may be placed above ground only to miss the obstacle. All distribution and/or transmission lines outside of the project distribution system may be above ground.
4. Waste Disposal: Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
5. Discontinuation and Decommissioning:
 - a. A solar Energy System shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the solar energy system to service. All solar energy system and accessory facilities shall be removed to four feet below ground level within 180 days of the discontinuation of use. The 180 days may be extended if proof of weather delays is provided.
 - b. Each solar energy system shall have a decommissioning plan outlining the anticipated means and cost of removing solar energy system at the end of their serviceable life or upon being discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the solar energy system and accessory facilities.
 - c. A Bond on each solar panel shall be set and issued by a 3rd party of sound financial institution in a form reasonably acceptable to the City for decommissioning. The amount will be set after Professional Engineer assesses how much it will cost to remove the solar panel and restore the area to its original state.
6. Interference: The applicant shall minimize or mitigate interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals

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caused by any solar energy system. The applicant shall notify all communication tower operators within five miles of the proposed solar energy system location upon application to the county for permits.

7. Roads: Applicants shall:

- a. Identify all county, municipal or township roads to be used for the purpose of transporting solar energy systems, substation parts, cement, and/or equipment for construction, operation or maintenance of the solar energy system and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
- b. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road.
- c. Be responsible for restoring the road(s) and bridges to preconstruction conditions.

8. Drainage System(s): The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the solar energy system.

9. The City of Gering may require other testing and safeguards such as Soil Testing, water testing, etc.

5.11 WIND ENERGY CONVERSION SYSTEMS

5.11.1 RESIDENTIAL AND SMALL WIND ENERGY SYSTEMS. It is the purpose of these regulations to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity and that such systems are appropriately sited within Gering's zoning jurisdiction.

5.11.1.A. DEFINITIONS. The following are defined for the specific use of this section. Additional definitions pertaining to wind energy systems are found in Section 5.11.2.1. herein.

1. Building-Mounted Wind Turbine (BMWT): a wind energy conversion system consisting of a wind turbine mounting system and associated control or conversion electronics and which is mounted to a building and intended to primarily reduce on-site consumption of utility power.
2. Decibel (db): The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level often set as 0 dbA. In general, this means the quietest sound we can hear is near 0 dbA and the loudest we can hear without pain is near 120 dbA. Most sounds in the typical day-to-day environment range from 30 dbA to 100 dbA. Normal speech at 3 feet averages about 65dbA.
3. FAA: Federal Aviation Administration.
4. Micro-Wind Energy Conversion System: shall mean a Wind Energy Conversion System of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or
5. less.
6. Residential Wind Energy Conversion System (RWECS): a wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, and which is intended to primarily reduce on-site consumption of utility power. A system is considered a residential wind energy system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.
7. Small Wind Energy Conversion System (SWECS): a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, and which will be used primarily to reduce on-site consumption of utility power. Such system has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
8. Total Height: shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

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9. Tower Height: shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

5.11.1.B. REQUIREMENTS FOR RESIDENTIAL WIND ENERGY CONVERSION SYSTEM (RWECS). Residential wind energy systems may be permitted as a conditional use within any district. Certain requirements as set forth below shall be met in addition to any conditions placed on the permit by the Planning Commission. See Section 5.11.2.6. for regulations on building mounted wind turbines.

1. Wind energy towers shall to the extent possible blend into the surrounding environment and architecture, including painting to reduce visual obtrusiveness. The Zoning Administrator may require a photo of an RWECS system of the same model that is the subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).
2. RWECS shall not be artificially lighted unless required by the FAA or another appropriate authority.
3. No tower should have any sign, writing, or picture that may be construed as advertising.
4. RWECS shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
5. An RWECS shall be located on a parcel that is at least one-half (1/2) acre in size.
6. The applicant shall provide information demonstrating that the system will be used primarily to off-set on-site consumption of electricity. No residential wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
7. The minimum distance between the ground and any protruding blades utilized on an RWECS shall be 20 feet, as measured at the lowest point on the arc of the rotor. The supporting tower shall also be enclosed with a six foot tall fence or the base of the tower shall not be climbable for a distance of 12feet.
8. Compliance with FAA regulations: An RWECS must comply with applicable regulations of the Federal Aviation Administration, including any necessary approvals for installations close to airports.
9. Compliance with the International Building Code: Building permit applications for an RWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower base, and footings. An engineering analysis of the tower showing compliance with the International Building Code and certified by a professional engineer licensed in the State of Nebraska shall also be submitted.
10. Compliance with National Electric Code: Building permit applications for an RWECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code. This information may be supplied by the manufacturer.
11. Setbacks
 - a. See Section 5.11.2.4 for setbacks.
 - b. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site
12. Tower Height: The applicant shall provide evidence that the proposed height of the RWECS does not exceed the height recommended by the manufacturer or distributor of the system.
 - a. The maximum tower height shall not exceed the maximum height allowed in the applicable zoning district, unless a greater restriction is imposed by FAA regulations.

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5.11.1.C. REQUIREMENTS FOR SMALL WIND ENERGY CONVERSION SYSTEM (SWECS). Small wind energy systems shall be permitted as a conditional use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met. See Section 5.11.2.6. for regulations on building mounted wind turbines.

1. Small wind energy towers shall maintain a galvanized steel finish, unless FAA standards require otherwise, or if the owner is attempting to match the finish on the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. The Zoning Administrator may require a photo of an SWECS system of the same model that is the subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).
2. SWECS shall not be artificially lighted unless required by the FAA or another appropriate authority.
3. No tower should have any sign, writing, or picture that may be construed as advertising.
4. SWECS shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
5. An SWECS shall be located on a parcel that is at least three (3) acres in size.
6. The applicant shall provide information demonstrating that the system will be used primarily to off-set on-site consumption of electricity. No residential wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
7. The minimum distance between the ground and any protruding blades utilized on an SWECS shall be 20 feet, as measured at the lowest point on the arc of the rotor. The supporting tower shall also be enclosed with a six foot tall fence or the base of the tower shall not be climbable for a distance of 12 feet.
8. Compliance with FAA regulations: An SWECS must comply with applicable regulations of the Federal Aviation Administration, including any necessary approvals for installations close to airports.
9. Compliance with the International Building Code: Building permit applications for an SWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower base, and footings. An engineering analysis of the tower showing compliance with the International Building Code and certified by a professional engineer licensed in the State of Nebraska shall also be submitted.
10. Compliance with National Electric Code: Building permit applications for an SWECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code. This information may be supplied by the manufacturer.
11. Setbacks
 - a. See Section 5.11.2.4 for setbacks.
 - b. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.
12. Tower Height: The applicant shall provide evidence that the proposed height of the SWECS does not exceed the height recommended by the manufacturer or distributor of the system.
 - a. The maximum tower height shall not exceed the maximum height limitation of the applicable zoning district, unless a greater restriction is imposed by FAA regulations.

5.11.2 COMMERCIAL/UTILITY GRADE WIND ENERGY SYSTEMS. It is the purpose of these regulations to promote the safe, effective and efficient use of commercial/utility grade wind energy systems and that such systems are appropriately sited within the zoning jurisdiction of the City of Gering.

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5.11.2.A. DEFINITIONS. The following are defined for the specific use of this section.

1. A-weighted Sound Level (dbA): a measurement of sound pressure level, which has been filtered or weighted to progressively de-emphasize the importance of frequency components below 1,000 Hz and above 5,000 Hz. This reflects the fact that human hearing is less sensitive at low frequencies and at extremely high frequencies, relative to the mid-range of the frequency spectrum. This area of sensitivity also corresponds to the human speech band. This measurement is the most commonly used filter in both industrial noise applications (governed by OSHA) and community noise regulations.
2. Aggregate Project: shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.
3. Applicant: A property owner, or any person or entity acting as an agent for the property owner, in an application for a WECS Permit under this Article.
4. Blade Glint: The intermittent reflection of the sun off the gloss surface of wind turbine blades.
5. Building-Mounted Wind Turbine (BMWT): a wind energy conversion system consisting of a wind turbine mounting system and associated control or conversion electronics and which is mounted to a building and intended to primarily reduce on-site consumption of utility power.
6. Commercial Wind Energy Conversion System (CWECS): an electrical generating facility comprised of one or more wind turbines and accessory facilities generating capacity, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy generated will be used by a utility company for off-site use. A wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.
7. Decibel (db): The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level often set as 0 dbA. In general, this means the quietest sound we can hear is near 0 dbA and the loudest we can hear without pain is near 120 dbA. Most sounds in the typical day-to-day environment range from 30 dbA to 100 dbA. Normal speech at 3 feet averages about 65dbA.
8. FAA: Federal Aviation Administration.
9. Fall Zone: shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.
10. FCC: Federal Communications Commission.
11. Feeder Line: shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
12. Furling: A design characteristic of a wind turbine intended to limit its power output in high winds by changing the rotor's plane of rotation to a plane that is not perpendicular to the prevailing wind direction.
13. Hub Height: the distance measured from ground level to the centerline of the rotor.
14. Ice Throw: Ice build-up that is thrown by the spinning turbine blades.
15. Meteorological Tower: shall mean, for purposes of this ordinance, a tower, including the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a

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- given location. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
16. Micro-Wind Energy Conversion System: shall mean a Wind Energy Conversion System of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.
 17. Nacelle: A cover housing that holds all of the generating components of a WECS, such as the gearbox, drive train, rotor shaft, and brake assembly.
 18. Operator: The person or entity responsible for the day-to-day operation and maintenance of the WECS.
 19. Public Conservation Lands: shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, Federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this ordinance, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
 20. Pure Tone: A sound whose instantaneous sound pressure is a simple sinusoidal function of the time and is characterized by a single frequency or singleness of pitch. For the purpose of these regulations, a pure tone shall exist if the one-third octave band sound pressure level in the bandwidth of the tone exceeds the arithmetic average of the sound pressure levels on the two contiguous one-third octave bands by five db for center frequencies of 500 Hz and above, and eight db for center frequencies between 160 and 400 Hz, and by 15 db for center frequencies less than or equal to 125 Hz.
 21. Residential Wind Energy Conversion System (RWECS): a wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, and which is intended to primarily reduce on-site consumption of utility power. A system is considered a residential wind energy system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.
 22. Rotor: The rotating part of a turbine, including the blades.
 23. Rotor Diameter: shall mean the diameter of the circle described by the moving rotor blades.
 24. Sensitive Receptor: Structures that have occupants on a routine basis and whose occupants could be negatively affected by noise, vibration, shadow, or flicker, including those structures intended for four season human habitation (whether inhabited or not), public parks, state designated wildlife areas, the manicured areas of private recreational establishments such as golf courses or the campsites in a state approved campground, schools, daycare centers, elderly care facilities, hospitals, places of public assembly, and businesses.
 25. Shadow Flicker: When the blades of an operating wind turbine pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his or her immediate environment.
 26. Small Wind Energy Conversion System (SWECS): a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, and which will be used primarily to reduce on-site consumption of utility power. Such system has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
 27. Stall Control: A braking mechanism on wind turbines where the rotor blades are bolted onto the hub at a fixed angle. The rotor blade profile is aerodynamically designed to ensure that the moment the wind speed becomes too high it creates turbulence on the side of the rotor blade which is not facing the wind. This stall prevents the lifting force of the rotor blade from acting on the rotor.

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28. Substations: shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35,000 KV) for interconnection with high voltage transmission lines.
29. Total Height: shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.
30. Tower: shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.
31. Tower Height: shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.
32. Transmission Line: shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
33. Turbine, or Wind Turbine: see “Wind Energy Conversion System.”
34. Upwind Rotor: A design in which the rotor on a wind turbine tower faces into the wind.
35. Well-designed Braking System: The primary braking system, which uses a mechanical brake, pitch-control of the turbine blades, or stall-control to bring the turbine to a stop in such a way that stall-induced vibrations/noise area voided.
36. Wind Energy Conservation System (WECS): shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
37. Wind Energy Conversion System (WECS) Facility: An electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.
38. Wind Turbines: shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

5.11.2.B. REQUIREMENTS. Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within any district. Certain requirements as set forth below shall be met in addition to any conditions placed on the permit by the Planning Commission. The following requirements and information shall be met and supplied:

1. The name(s) of project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
5. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
6. Engineer’s certification from a professional engineer licensed in the State of Nebraska.
7. Documentation of land ownership or legal control of the property.
8. The latitude and longitude of individual wind turbines.
9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed CWECS not owned by the applicant.
10. Location of wetlands, scenic, and natural areas (including river and bluffs) within 1,320 feet of the proposed CWECS.
11. An Acoustical Analysis that certifies that the noise requirements within these regulations can be met.

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12. FAA and FCC permit, if necessary. Applicant shall submit permit or evidence that the permit has been filed with the appropriate agency.
13. Location of all known Communication Towers within two miles of the proposed Wind Energy Conversion System and evidence that there will be no interference with any such commercial and/or public safety communications towers.
14. Decommissioning Plan as required by this ordinance.
15. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties.
16. A CWECS shall be located on a parcel that is at least ten (10) acres in size.
17. Setbacks identified as required in Section 5.11.2.4.
18. There also shall be submitted with the application a copy of the proposed policy of liability insurance which will comply with the requirements of Section 150.142 of the City's Municipal Code of Ordinances and Section 5.11.2.11 of these regulations.

5.11.2.C. AGGREGATED PROJECTS

1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.

5.11.2.D. SETBACKS. All towers shall adhere to the setbacks established in the following table:

	Wind Turbine–Non Commercial WECS (residential & small)	Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines	1.1 times the total height or in an Agricultural or Transitional Agricultural Districts only. In other districts, the setback shall be the distance of the fall zone, as certified by a professional engineer, + 10feet	1.25 times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height.
Neighboring Dwelling Units*		750 feet	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height.
Road Rights-of-Way**	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	One times the height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Other Rights-of-Way	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Public conservation lands	NA	1320 feet	600 feet
Wetlands, USFW Types III, IV, and V	NA	1320 feet	600 feet
Other structures	NA	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Other existing WECS	NA	To be considered based on: •Relative size of the existing and proposed WECS •Alignment of the WECS relative to the predominant winds •Topography •Extent of wake interference impacts on existing WECS •Property line setback of existing WECS •Other setbacks required Waived for internal setbacks in multiple turbine projects including aggregated projects	
River / Bluffs	NA	1,320feet	NA

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*The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

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

5.11.2.E. SPECIAL SAFETY AND DESIGN STANDARDS. All towers shall adhere to the following safety and design standards:

1. Clearance of rotor blades or airfoils must maintain a minimum of 20 feet of clearance between their lowest point and the ground.
2. All CWECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
3. All wind turbines, which are a part of a CWECS, shall be installed with a tubular, monopole type tower.
4. Consideration shall be given to painted aviation warnings on all towers less than 200feet.
5. The design of the nacelles of turbines and towers shall not use designs or construction methods that provide perches for avian predators.
6. Turbine identification:
 - a. Each site access road shall be named according to the City street (or county road) naming convention;
 - b. Each individual turbine shall be designated with a numeric or alphanumeric identifier;
 - c. Each individual turbine shall be labeled with its respective identifier and the name of the access road it is located along; and
 - d. Signage shall be provided at the intersection of each access road with the public right-of-way indicating the towers that may be found along that access road, along with subsequent signage at each road intersection within the site further indicating the direction to specific towers.
7. Wind turbines that are not designed in “accordance with proven good engineering practices” shall be prohibited. Turbines designed with the following characteristics shall be deemed in “accordance with proven good engineering practices:”
 - a. at least 3blades;
 - b. upwind rotor;
 - c. no furling;
 - d. tapered and twisted blades; and
 - e. a well-designed braking system.
8. Color and finish:
 - a. All wind turbines and towers that are part of a CWECS shall be white, grey or another non-obtrusive single color.
 - b. Blades may be black in order to facilitate deicing.
 - c. Finishes shall be matte or non-reflective.
 - d. CWECS shall not display advertising, except for reasonable identification of the manufacturer, facility owner or operator, which may be placed on the nacelle.
9. Visual Impact
 - a. To provide visual order to a WECS facility, all individual turbines shall have the same number of rotor blades and all rotor blades shall spin in the same direction (i.e., clockwise or counter-clockwise) in relation to the wind.
 - b. To promote visual uniformity, all turbines at a similar ground elevation shall have the same height from blade tip to the ground.
 - c. Distinct groupings or clusters of wind turbines shall be limited to no more than 12 machines per cluster. A cluster shall be defined as a grouping of machines that are greater than 1,320 feet (¼ mile) from another grouping.
 - d. In light wind conditions, turbine rotor blades shall not be kept in a locked position except as necessary to meet operational or maintenance requirements;

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- e. Except during construction, re-construction or removal, outdoor storage is not permitted within the facility boundary except at locations that are screened from view, as shown on the approved site plan;
 - f. If turbines become inoperable for any reason, they shall be repaired as soon as reasonably possible;
 - g. To avoid cluttering the skyline, inverters and pendant power cables shall be located inside the wind turbine tower, nacelle or structure;
 - h. No telecommunications dishes, antennas, cellular telephone repeaters or other similar devices shall be attached to wind turbine towers;
 - i. The maximum total height of the turbines shall be 355 feet. Greater height, but not in excess of 400 feet, may be considered on a case by case basis if the applicant can sufficiently demonstrate that the increased height will result in increased energy efficiencies thereby reducing the overall number of turbines in the project. However, in all cases, due consideration shall be given to the scale of the turbines in relation to the surrounding landscape.
10. Lighting:
- a. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations.
 - b. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds.
 - c. Red pulsating incandescent lights shall be prohibited.
11. All signage shall comply with the sign regulations found in these regulations.
12. All communications and feeder lines installed as part of a CWECS shall be buried, where feasible.
13. No CWECS shall exceed 50 dbA at the nearest structure or use occupied by humans.
14. Controls and brakes:
- a. All WECS shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode.
 - b. Stall regulation shall not be considered a sufficient braking system for over speed protection.
15. Interference.
- a. The applicant shall minimize or mitigate interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any CWECS.
 - b. The applicant shall notify all communication tower operators within five miles of the proposed CWECS location upon application to the City for permits.
16. Roads, applicant shall:
- a. Identify all city, county or townships streets/roads to be used for the purposes of transporting CWECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the CWECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
 - b. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road/facility.
 - c. Be responsible for restoring or paying damages as agreed to by the applicable jurisdiction sufficient to restore the road(s) and bridges to preconstruction conditions.
17. The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the CWECS.
18. Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

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5.11.2.F. BUILDING-MOUNTABLE WIND TURBINES(BMWT). A BMWT and its essential support facilities shall be allowed as a permitted accessory use when attached to the principle structure in any zoning district subject to the following:

1. A simple site plan shall be submitted for each BMWT providing the following information:
2. Mounting location of the BMWT on the principle structure.
3. Description of the BMWT height and width, including a photo (if available) or other visual representation.
4. BMWT shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
5. BMWT shall comply with the maximum height requirement of the zoning district in which it is located. Applicants proposing an installation higher than allowed by the zoning district in which it will be located may apply for a variance to the Zoning Board of Adjustment.
6. No BMWT may occupy, encroach or “overhang” any public right-of-way without the expressed approval of the City of Gering.
7. Each BMWT installation shall require a separate building permit.

5.11.2.G. NOISE AND SHADOW FLICKER

1. Audible sound from a WECS facility shall not exceed 50 dbA if it is determined a pure tone is generated by the facility, as measured at the exterior of any occupied building on a non-participating landowner's property. Methods for measuring and reporting acoustic emissions from the WECS facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 (1989) titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.
2. The Facility owner and Operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.

5.11.2.H. USE OF PUBLIC ROADS; BOND REQUIRED. The property owner of a CWECS facility shall be responsible for extraordinary maintenance and restoration of all City roads leading to the project site that may be damaged during construction or due to activities involving the CWECS facility unless the property owner can prove that operation of the CWECS facility was not the cause of the roadway damage. All maintenance and restoration of roads shall be done with the approval of and to the satisfaction of the Public Works Director. The following information shall be submitted along with an application for a CWECS Permit:

1. Detailed maps of access and haul routes;
2. If weight and size permits are required by the Nebraska Department of Roads, a pre-construction baseline survey shall be provided to document and determine existing road conditions;
3. A report on potential road damage that may result from the construction and maintenance of the CWECS facility;
4. If, in the discretion of the Public Works Department, road damage may occur, a road damage mitigation plan and/or long-term road maintenance agreement shall be submitted, which shall include a bond, escrow, security agreement, or other form of guarantee approved by the City Attorney, in an amount determined by the Public Works Director to be sufficient to guarantee the necessary restoration or extraordinary maintenance required due to the construction or operation of the CWECS facility; and
5. If impacts may occur to public roads in other jurisdictions, the Applicant shall give notice to such other jurisdictions, providing information regarding road impacts, and submit to the Public Works Department proof that such notice was given.

5.11.2.I. DECOMMISSIONING PLAN; BOND REQUIRED

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1. The facility owner and operator shall, at its expense, complete decommissioning of the CWECS facility, or individual turbines, within six months after the end of the useful life of the facility or individual turbines. The CWECS facility or individual turbines will presume to be at the end of their useful life if no electricity is generated for a continuous period of 12 months. A decommissioning plan shall be submitted with an application for a CWECS permit, which shall document:
 - a. The removal of turbines, buildings, cabling, electrical components, roads, foundations to a depth of four feet within 180 days;
 - b. Grading and re-seeding all disturbed earth;
 - c. A report prepared by an independent professional engineer licensed in the State of Nebraska that estimates the total cost of decommissioning ("Decommissioning Costs") without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommissioning Costs"). Said estimates shall be submitted to the City of Gering after the first year of operation and every fifth year thereafter.
 - d. The facility owner or operator shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs, provided, at no point shall Decommissioning Funds be less than 25 percent of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained as a bond, escrow, security agreement, or other form of guarantee approved by the City Attorney.
 - e. If the facility owner or operator fails to complete decommissioning within the period prescribed herein, then the landowner shall have six months to complete decommissioning.
 - f. If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed herein, then the City of Gering may take such measures as necessary to complete decommissioning.
 - g. An easement allowing the City of Gering access to the project site, pursuant to reasonable notice, to effect or complete decommissioning.
 - h. The escrow agent shall release the Decommissioning Funds when the facility owner or operator has demonstrated and the City of Gering concurs that decommissioning has been satisfactorily completed, or upon written approval of the City of Gering in order to implement the decommissioning plan.
 - i. An agreement that the City of Gering is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the right to seek reimbursement from the facility owner or operator, or property owner, for decommissioning costs in excess of the amount guaranteed, and to file a lien against any real estate owned by the facility owner or operator, or property owner, or in which they have an interest, for the amount of the excess, and to take all steps allowed to enforce such lien.
2. Financial provisions shall not be so onerous as to render CWECS facilities unfeasible in the City of Gering.

5.11.2.J. REPAIR; ABANDONMENT; REMOVAL SMALL WIND ENERGY CONVERSION SYSTEMS. Any SWECS found to be unsafe by the Building Official shall be repaired by the owner to meet federal, state and local safety standards, or removed within six months. If any SWECS is not operated for a continuous period of 12 months, the City shall notify the landowner by registered mail that such SWECS is deemed abandoned and provide 45 days for a response. In their response, the landowner shall set forth reasons for the operational difficulty and provide a timetable for corrective action not exceeding six months. If the corrective action is not completed within six months, the City shall notify the landowner that such SWECS shall be removed within 12 days of receipt of the notice.

5.11.2.K. LIABILITY INSURANCE. For each CWECS facility, there shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$1 million

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per occurrence and \$1million in the aggregate. Copies of such certificates shall be made available to the City of Gering upon request.