

SECTION 1

TITLE

1.1 TITLE

This ordinance shall be known and may be cited and referred to as the City of Oshkosh Zoning Ordinance.

SECTION 2

ESTABLISHMENT OF DISTRICTS; OFFICIAL ZONING DISTRICT MAP; INTERPRETATION OF DISTRICT BOUNDARIES

2.1 JURISDICTION

This Ordinance shall apply to the incorporated area of the City of Oshkosh, Nebraska and that portion of the area outside the City's incorporated boundary which is within the one-mile area of planning and zoning jurisdiction set forth by Nebraska law, as may be amended when necessary.

2.2 ESTABLISHMENT OF DISTRICTS

For the purposes of this zoning ordinance, the City of Oshkosh and the area extending one mile from the corporate limits, is hereby divided into the following districts:

- A Agriculture District
- R-1 Residential District
- R-2 Residential District
- H Highway Commercial District
- C Commercial District
- M Industrial District

2.3 OFFICIAL ZONING DISTRICT MAP

The boundaries of these districts are hereby established as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor, attested to by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in this Ordinance # of Oshkosh, Nebraska" together with the date of the adoption of this Ordinance.

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

Regardless of the existence of 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, water areas, buildings and other structures.

2.4 INTERPRETATION OF DISTRICT BOUNDARIES

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

1. Boundaries indicated as approximately following the center lines or right of way of streets, highways, or alleys shall be construed to follow such center or right of way lines unless otherwise noted.
2. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following city limit lines shall be construed as following 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 lines 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 the foregoing rules 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, or in other circumstances not covered by the foregoing rules, the Board of Adjustment shall interpret the district boundaries.

2.5 SEVERABILITY

It is hereby declared to be the intention of the City of Oshkosh that the provisions of these regulations are severable, in accordance with the following rules:

1. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, the judgment shall not affect any other provisions of these regulations.
2. If any court of competent jurisdiction shall adjudge invalid the application of any provisions of these regulations to a particular property structure, the judgment shall not affect the application of the provisions to any other property or structure.

2.6 PRIVATE AGREEMENTS

These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship; provide, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than the easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.

2.7 UNLAWFUL USES

The adoption of these regulations shall not be interpreted as retroactively legalizing a use or structure which was illegal under previous laws or ordinance.

2.8 RULES OF WORDS

In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:

1. Words used in the present tense shall include the future tense.
2. Words in the singular number include the plural number, and words in the plural number include the singular number.
3. The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”.
4. The words “shall” and “must” are mandatory.
5. The word “may” is permissive or discretionary.
6. The word “person” includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
7. The word “Board” means the Oshkosh Board of Adjustments.
8. The word “Commission” shall mean the Planning Commission of Oshkosh.
9. The word “Council” shall mean the Oshkosh City Council.
10. Unless otherwise specified, all distances shall be measured horizontally.
11. The Word “City” means City of Oshkosh, Nebraska.
12. The abbreviation N/A means not applicable.

Any word or phrase, which is defined in this article or elsewhere in these regulations, shall have the meaning as so regulations, unless such definition is expressly limited in its meaning or scope.

SECTION 3

APPLICATION OF DISTRICT REGULATIONS

3.1 APPLICATION OF DISTRICT REGULATIONS

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. 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, relocated, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
 - a. To exceed the height;
 - b. To accommodate or house a greater number of families;
 - c. To occupy a greater percentage of lot area;
 - d. To have narrower or smaller rear yards, front yards, side yards or other open spaces;Than herein required; or on any manner contrary to the provisions of this ordinance.
3. No part of a yard, or other open space, or off-street parking or loading space required for or in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
4. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements established by this ordinance.
5. No water or sewer facility shall be constructed, altered, connected or used unless in conformity with all of the regulations herein specified.

3.2 OTHER CODES AND ORDINANCES

The requirements and regulations of this ordinance are in addition to those imposed in Ordinances pertaining to buildings in the "Fire Limits" and to those imposed in Uniform Housing, Plumbing, Electrical and Fire Codes and shall in no instance reduce or eliminate standards or requirements made by such other ordinances.

3.3 OVERLAPPING OR CONTRADICTING REGULATIONS

Whenever this ordinance requires a greater width or size of yard, courts, or other open spaces, or requires a lower height of building or less number of stories or requires a greater percentage of lot to be left unoccupied or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of this ordinance shall govern. Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts, or other open space or require a lower height of building or a less number of stories or require a great percentage of lot to be left unoccupied or impose other higher standards than are required by the regulations made under authority of said sections, the provisions of such statute or local ordinance or regulations shall govern.

SECTION 4

NON-CONFORMING LOTS, NON-CONFORMING USES OF LAND, NON-CONFORMING STRUCTURES, AND NON-CONFORMING USES OF STRUCTURES AND PREMISES

4.1 **GENERAL**

Within the districts established by this ordinance or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this ordinance or future amendment.

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

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

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent positions and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

4.2 **NON-CONFORMING USES OF LAND**

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

1. No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of

adoption or amendment of this ordinance without consent of the City Council using the procedures outlined for a conditional use.

2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
3. If any such non-conforming use of land ceases for any reason for a period of more than 90 days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

4.3 NON-CONFORMING STRUCTURES

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

1. No such structure may be enlarged or altered in a way which increases its non-conformity.
2. Should such structure be destroyed by any means to extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
3. Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

4.4 NON-CONFORMING USES OF STRUCTURES

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

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located without consent of the City Council using the procedures outlined for a conditional use.
2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the

time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this ordinance.
4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.
5. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months, the structure or structure premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
6. Where non-conforming use status applies to the structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

4.5 REPAIRS AND MAINTENANCE

On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten (10) percent of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of the passage or amendment of this ordinance shall not be increased.

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

4.6 USES UNDER EXCEPTION PROVISIONS, NOT NON-CONFORMING USES

Any use for which a conditional permit is issued as provided in this ordinance shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district subject to conditions of the permit.

SECTION 5

DISTRICT REGULATIONS

In the following established districts a structure, building, or premise shall be used or occupied only for the following purpose and shall conform to the following regulations.

5.1 "A" AGRICULTURE DISTRICT

1. **Intent:** It is the intent of this agricultural district to serve the agricultural community, protect farm land, protect land values, protect wellfields, and serve the needs of the property owners in this district. It is the intention to only restrict in the Agriculture District that which is necessary to protect the health, safety, and general welfare of Oshkosh and its surrounding area.
2. **Permitted Uses:** In the Agriculture District "A" buildings, structures, land and premises shall hereafter be allowed to be erected, constructed, reconstructed, moved, or altered as long as they are to be used for a permitted use.
 - a. Raising of field crops and horticulture, nurseries and greenhouses.
 - b. Pasturing or grazing of livestock.
 - c. Single family dwelling.
 - d. Home occupations.
 - e. Public park, playground, golf course and other recreational uses.
 - f. Hospital and nursing homes and assisted care facilities.
 - g. On-site sign.
 - h. Municipally owned/managed public utilities.
 - i. Irrigation facilities.
 - j. Cemeteries.
 - k. Manufactured homes following requirements set forth in this ordinance.
 - l. Accessory structures and uses customarily incidental to the listed permitted uses.
 - m. Vacation rentals, bed & breakfast, and rooming house. (Ordinance No. 469, 8-12-2021).
3. **Conditional Uses:** The following conditional uses may be permitted subject to approval procedures outlined in this Ordinance.
 - a. Private country clubs, recreation areas, golf course, tennis courts, swimming pool and accessory recreational uses.
 - b. Accessory dwellings for persons directly engaged in on-site agricultural operation.
 - c. Airports and airfields.
 - d. Communication towers.
 - e. Meteorological towers.
 - f. Non-commercial wind energy systems.

- g. Commercial wind energy systems.
- h. Private commercial storage facility.
- i. Church, educational facilities and parish house.
- j. Mobile Home Park following regulations set forth in this Ordinance.
- k. Commercial businesses requiring large lot area.
- l. Accessory structures and uses customarily incidental to the listed conditional use.
- m. Large or small box discount stores or chain or franchised stores and businesses. (*Ordinance No. 469, 8-12-2021*).

4. Minimum Lot and Maximum Height Regulations:

Regulator	Single-Family	Other Permitted Uses
Minimum Lot Area	2 acres	2 acres
Minimum Lot Width (feet)	80	80
Minimum Yards (feet)		
Front Yard	25	25
Side Yard	10	10
Street Side Yard	25	25
Rear Yard	30	30
Maximum Height (feet)	None	None

5.2 “R-1” RESIDENTIAL DISTRICT

1. **Intent:** The intent of this district is to provide an area for development in residential neighborhoods including those uses which reinforce residential neighborhoods.
2. **Permitted Uses:** In District “R-1” no building structure, land, or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:
 - a. Single-family dwellings.
 - b. Two-family dwellings.
 - c. Home occupations.
 - d. Day care homes.
 - e. Churches and temples of worship.
 - f. Schools and colleges.
 - g. Community center buildings.
 - h. Municipal utilities and buildings.
 - i. Hospitals and nursing homes.
 - j. Medical clinics.
 - k. Manufactured homes following requirements set forth in this ordinance.
 - l. Municipal recreation buildings, playgrounds and parks.
 - m. Public libraries.
 - n. Accessory structures and uses customarily incidental to the listed permitted uses.
 - o. Vacation rentals, bed & breakfast, and rooming house. (*Ordinance No. 469, 8-12-2021*).
3. **Conditional Uses:** The following conditional uses may be permitted in the R-1 District subject to approval procedures outlined in this Ordinance.
 - a. Private country clubs, recreation areas, golf course, tennis courts, swimming pool and accessory recreational uses.
 - b. Multi-family dwelling buildings.
 - c. Day care centers.
 - d. Day care homes.
 - e. Funeral homes.
 - f. Accessory structures and uses customarily incidental to the listed conditional uses.

4. **Minimum Lot and Maximum Height Regulations:**

Regulator	Single-Family	Two-Family	Other Permitted Uses
Minimum Lot Area (sq. feet)	6,500	3,250/dwelling unit	6,500
Minimum Lot Width (feet)	50	50/dwelling unit	50
Minimum Yards (feet)			
Front Yard*	25	25	25
Side Yard	5	5**	5
Street Side Yard	10	10	10
Rear Yard	5	5	5
Maximum Height (feet)***	35	35	35

* The front yard requirements shall be adjusted in the following situations:

- i. If there are already two or more homes existing on a block with the same street frontage, a new home cannot have a front yard smaller than any other aforementioned homes on that block.
- ii. Neither front yard can be less than any other front yard along the same street on that same block.

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

***Governmental buildings may exceed the maximum height regulation.

5. **Design Guidelines:** All dwellings in the R-1 District shall meet these minimum design guidelines;

- a. All dwellings shall be built on a permanent foundation.
- b. No dwelling shall have wheels, axles, and hitch mechanisms.
- c. All dwellings shall be connected to public water and sewer.
- d. All dwellings shall have siding material of one of the following types:
 - i. residential horizontal aluminum lap siding,
 - ii. residential horizontal vinyl lap siding,
 - iii. cedar or other wood siding,
 - iv. wood grain, weather resistant, press board siding,
 - v. stucco siding,
 - vi. brick or stone,
 - vii. other siding materials which are aesthetically compatible as determine by the Zoning Administrator.
- e. All dwellings shall have roofing material of a type used on site-constructed residence such as:
 - i. fiberglass shingles on a pitched roof according to the design specifications of the shingles,

- ii. shake shingles on a roof pitched according to the design specifications of the shingles,
 - iii. asphalt shingles on a roof pitched according to the design specifications of the shingles,
 - iv. tile materials on a roof pitched according to the design specifications of the shingles,
 - v. other roofing materials which are aesthetically compatible as determined by the Zoning Administrator.
- f. All dwelling shall be at least 900 square feet.
 - g. All dwellings shall have a minimum exterior width of 18 feet (18')
 - h. The roofs of all dwelling shall have a minimum vertical rise of two and one-half inches (2 ½").

5.3 “R-2” RESIDENTIAL DISTRICT

1. **Intent:** The intent of the R-2 zoning district is to establish the general location for high-density single and multi-family living including the use of mobile homes, but to afford flexibility for the establishment of uses, other than residential, that are not detrimental to the overall intent of the residential neighborhood.
2. **Permitted Uses:** In District “R-2” no building structure, land, or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:
 - a. Single-family dwellings.
 - b. Two-family dwellings.
 - c. Multi-family dwellings.
 - d. Rooming houses.
 - e. Boarding houses.
 - f. Churches and temples of worship.
 - g. School and colleges.
 - h. Home occupations.
 - i. Community center buildings.
 - j. Day care homes.
 - k. Day care centers.
 - l. Hospitals and nursing homes.
 - m. Medical clinics.
 - n. Municipal recreation buildings, playgrounds and parks.
 - o. Public libraries.
 - p. Manufactured homes following requirements set forth in this ordinance.
 - q. Accessory structures and uses customarily incidental to the listed permitted uses.
 - r. Vacation rentals, bed & breakfast, and rooming house. (*Ordinance No. 469, 8-12-2021*).
3. **Conditional Uses:** The following conditional uses may be permitted in the R-2 District subject to approval procedures outlined in this Ordinance.
 - a. Mobile home parks following regulations set forth in this Ordinance.
 - b. Public utilities and public municipal corporations and governmental entities.
 - c. Funeral homes.
 - d. Day spa.
 - e. Accessory structures and uses customarily incidental to the listed conditional uses.

4. **Minimum Lot and Maximum Height Regulations:**

Regulator	Single-Family	Two-Family	Multi-Family	Other Permitted Uses
Minimum Lot Area (sq. feet)	6,500	3,250/dwelling unit	2,000/dwelling unit	6,500
Minimum Lot Width (feet)	50	50/dwelling unit	100	50
Minimum Yards (feet)				
Front Yard*	25	25	25	25
Side Yard	5	5**	5	5
Street Side Yard	10	10	10	10
Rear Yard	5	5	5	5
Maximum Height (feet)***	35	35	45	35

* The front yard requirements shall be adjusted in the following situations:

- i. If there are already two or more homes existing on a block with the same street frontage, a new home cannot have a front yard smaller than any other aforementioned homes on that block.
- ii. Neither front yard can be less than any other front yard along the same street on that same block.

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

***Governmental buildings may exceed the maximum height regulation.

5. **Design Guidelines:** All dwellings in the R-2 District shall meet these minimum design guidelines unless they are located within an approved Mobile Home Park;
 - a. All dwellings shall be built on a permanent foundation.
 - b. No dwelling shall have wheels, axles, and hitch mechanisms.
 - c. All dwellings shall be connected to public water and sewer.
 - d. All dwellings shall have siding material of one of the following types:
 - i. residential horizontal aluminum lap siding,
 - ii. residential horizontal vinyl lap siding,
 - iii. cedar or other wood siding,
 - iv. wood grain, weather resistant, press board siding,
 - v. stucco siding,
 - vi. brick or stone,

- vii. other siding materials which are aesthetically compatible as determine by the Zoning Administrator.
- e. All dwellings shall have roofing material of a type used on site-constructed residence such as:
 - i. fiberglass shingles on a pitched roof according to the design specifications of the shingles,
 - ii. shake shingles on a roof pitched according to the design specifications of the shingles,
 - iii. asphalt shingles on a roof pitched according to the design specifications of the shingles,
 - iv. tile materials on a roof pitched according to the design specifications of the shingles,
 - v. other roofing materials which are aesthetically compatible as determined by the Zoning Administrator.
- f. All dwelling shall be at least 900 square feet.
- g. All dwellings shall have a minimum exterior width of 18 feet (18')
- h. The roofs of all dwelling shall have a minimum vertical rise of two and one-half inches (2 ½").

5.4 "H" HIGHWAY COMMERCIAL

1. **Intent:** The intent of this zoning district is to provide the high access areas to provide services to highway travelers.
2. **Permitted Uses:** In the "H" Highway Commercial District, buildings, structures and land shall be used only for the following purposes:
 - a. Agricultural implement/irrigation sales and service.
 - b. Animal hospitals or clinics when all facilities are within an enclosed building.
 - c. Automobile and truck sales and service.
 - d. Automotive parts and accessory stores.
 - e. Boat sales, service and rental.
 - f. Bowling alleys.
 - g. Butcher, custom kill.
 - h. Car washes.
 - i. Camping facility.
 - j. Churches and places of worship.
 - k. Coffee shop/café.
 - l. Coffee roasting/production facility.
 - m. Construction equipment rental and sales.
 - n. Cultural/Convention centers.
 - o. Day care center.
 - p. Dry-cleaning and laundry establishments.
 - q. Fire stations.
 - r. Grocery stores.
 - s. Hotels and motels including accessory service uses, such as news-stands, messenger and telegraph stations, swimming pools (for motel guests only), and flower and gift shops.
 - t. Indoor skating rinks.
 - u. Lumber and building materials sales yards.
 - v. Medical Office.
 - w. Mini-warehouse.
 - x. Mobile home and trailer sales and rental, but not including the use of a mobile home as a residence.
 - y. Mortuaries.
 - z. Motorcycle sales, service and rentals.
 - aa. Museums.
 - bb. Nursery and garden stores.
 - cc. Offices, professional and medical.
 - dd. Package liquor stores.
 - ee. Private clubs and lodges.
 - ff. Retail.
 - gg. Restaurants including drive-ins.
 - hh. Self-service laundries and dry-cleaning establishments.

- ii. Service stations, auto-body shops, or filling stations.
 - jj. Sporting goods stores.
 - kk. Storage buildings.
 - ll. Taverns.
 - mm. Warehouse.
 - nn. Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.
 - oo. Vacation rentals, bed & breakfast, and rooming house. (*Ordinance No. 469, 8-12-2021*).
3. **Conditional Uses:** The following conditional uses may be permitted in the H Highway Commercial District subject to approval procedures outlined in this Ordinance:
- a. Restricted (Adult Entertainment) Businesses.
 - b. Communication Towers.
 - c. Meteorological Towers.
 - d. Non-Commercial Wind Energy Systems.
 - e. Bed and Breakfast Facility.
 - f. Miniature Golf and Driving Range.
 - g. Farm equipment repair.
 - h. Motor vehicle or farm equipment repair service; provided that all work shall be performed and all materials shall be stored within an enclosed building; and provided further that all operable or inoperable motor vehicles determined to be a safety hazard or visual blight shall be screened from public view and access by a solid or semi-solid fence having a minimum height of six feet.
 - i. Storage and warehousing except for products of a highly explosive, combustible or volatile nature.
 - j. Wholesale establishments except those which handle products of highly explosive, combustible or volatile nature.
 - k. Light assembly and processing operations such as electronics, garment works, plate making, pattern shops and other similar uses.
 - l. Contractor and electrical supply office and equipment storage yard, providing the storage yard is completely enclosed with a six-foot solid fence, wall, or hedge when adjacent to a residential district.
 - m. 5.4.3.1 Large or small box discount stores or chain or franchised stores and businesses. (*Ordinance No. 469, 8-12-2021*).

4. **Minimum Lot and Maximum Height Regulations:**

Regulator	Permitted Uses
Minimum Lot Area (sq. feet)	6,500
Minimum Lot Width (feet)	50
Minimum Yards (feet)	
Front Yard	25
Side Yard	10

Side Yard Adjacent to Residential District	25
Street Side Yard	25
Rear Yard	20

5. **Other Site Guidelines:**

- a. No outdoor storage shall be permitted except for the display of merchandise for sale to the public.
- b. No structure shall be used for residential purposes except by the owner or operator of the business located on the premises and except that accommodations may be offered to transient public by motels and hotels.
- c. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in a residential district.
- d. A bufferyard consisting of a solid or semisolid fence, hedge or wall at least six (6) feet, but not more than eight (8) feet high and having a density of not less than seventy percent (70%) per square foot shall be provided adjacent to any adjoining residential district unless the adjacent residential district and the commercial development are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner(s) of the property.

5.5 "C" COMMERCIAL DISTRICT

1. **Intent:** The intent of this district is to provide a zone which will accommodate the broad range of retail shopping activities, services, and office use. Most commonly these uses are found within the Downtown District.
2. **Permitted Uses:** In the "C" Commercial District, buildings, structures and land shall be used only for the following purposes:
 - a. Amusement places (indoors), including video games, arcades, game machines, pool halls, and other similar establishments.
 - b. Animal hospitals, clinics and kennels providing the establishment and runs are completely enclosed in a building.
 - c. Antique shops and stores, providing all merchandise is displayed and sold inside a building.
 - d. Apparel and accessory stores.
 - e. Apartments on floors other than the ground (main) floor.
 - f. Art and Art supply stores.
 - g. Artist studio.
 - h. Auditoriums and similar places of public assembly.
 - i. Automobile accessory and supply store.
 - j. Automobile parking lots and garages.
 - k. Bait Shop.
 - l. Bakery and pastry shop (retail only).
 - m. Banks and other savings and lending institutions.
 - n. Barber shops, beauty shops, chiropody, massage or similar personal services.
 - o. Bicycle shops.
 - p. Books and stationary stores.
 - q. Bowling alleys.
 - r. Business and technical schools including schools for photography, dancing, and music.
 - s. Business machine repair, sales and services.
 - t. Cigar and tobacco stores.
 - u. Clothing and costume rental.
 - v. Commercial recreation centers.
 - w. Custom dressmaking, millinery, tailoring and similar trades.
 - x. Day care center.
 - y. Day care home.
 - z. Delicatessens and catering establishments.
 - aa. Department stores.
 - bb. Drug stores and prescription shops.
 - cc. Dry goods and notion stores.
 - dd. Dry cleaning and laundry establishments.
 - ee. Fire stations, police stations and jails.

- ff. Fix-it shops (radio, television and small household appliances).
- gg. Florist and gift shop.
- hh. Furniture and home furnishing stores.
- ii. Gift shop.
- jj. Gasoline station.
- kk. Government administrative buildings.
- ll. Grocery stores.
- mm. Hardware stores.
- nn. Hobby, stamp and coin shops.
- oo. Hotels and Motels.
- pp. Household appliance stores.
- qq. Interior decorators shops.
- rr. Jewelry and metal craft stores and shops.
- ss. Leather goods and luggage stores.
- tt. Library and museum (public).
- uu. Lock and key shops.
- vv. Mail order catalog stores.
- ww. Medical, dental and health clinics.
- xx. Medical and orthopedic appliance stores.
- yy. Meeting halls and auditoriums.
- zz. Messenger and telegraph service stations.
- aaa. Music instrument sales and repair shop.
- bbb. Newspaper offices.
- ccc. Newsprint, job printing and printing supply stores.
- ddd. Newsstand.
- eee. Offices and office buildings.
- fff. Office supply and office equipment stores.
- ggg. Optician and optometrists.
- hhh. Package liquor stores.
- iii. Paint and wallpaper stores.
- jjj. Parking lots and garages.
- kkk. Parks and open spaces.
- lll. Pawn shops.
- mmm. Pet shops.
- nnn. Photographic equipment sales and supply stores.
- ooo. Photographic studios.
- ppp. Picture framing studios.
- qqq. Plumbing, heating, ventilation, air conditioning and electrical shops including related fabrication.
- rrr. Post office.
- sss. Printers.
- ttt. Private clubs and lodges.
- uuu. Public Utilities and Public and Municipal Corporations and Government Entities.

- vvv. Radio and television studios.
- www. Restaurants, excluding drive-ins.
- xxx. Service stations.
- yyy. Self-services laundries and dry cleaning establishments.
- zzz. Sewing machine shops and stores.
- aaaa. Shoe stores and shoe repair shops.
- bbbb. Sporting and athletic goods stores.
- cccc. Stores and shops for the conduct of retail and service business similar to the uses listed in this section.
- dddd. Tailor shops.
- eeee. Taverns.
- ffff. Theaters.
- gggg. Toy stores.
- hhhh. Travel bureaus.
- iiii. Upholstery – furniture.
- jjjj. Utility company office.
- kkkk. Variety stores.
- llll. Watch repair shops.
- mmmm. Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.
- nnnn. Vacation rentals, bed & breakfast, and rooming house. (*Ordinance No. 469, 8-12-2021*).

3. **Conditional Uses:** The following conditional uses may be permitted in the “C” Commercial District subject to approval procedures outlined this Ordinance:

- a. Apartment Dwellings.
- b. Restricted (Adult Entertainment) Businesses.
- c. Communication Towers.
- d. Meteorological Towers.
- e. Non-Commercial Wind Energy Systems.
- f. Wholesale Establishments Except Those Which Handle Products of Highly Explosive, Combustible or Volatile Nature
- g. Accessory Uses and Buildings that are Clearly Incidental to These Uses and that will Not Create a Nuisance or Hazard.
- h. Large or small box discount stores or chain or franchised stores and businesses. (*Ordinance No. 469, 8-12-2021*).

4. **Minimum Lot and Maximum Height Regulations:**

Regulator	Permitted Uses
Minimum Lot Area (sq. feet)	None
Minimum Lot Width (feet)	None
Minimum Yards (feet)	
Front Yard	None
Side Yard	None
Side Yard Adjacent to Residential District	10

Street Side Yard	None
Side Yard Adjacent to Residential District	10
Rear Yard	None
Side Yard Adjacent to Residential District	20
Maximum Height (feet)	None

5. **Other Site Guidelines:**

- a. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- b. The main floor or first level of all buildings within the “C” zoning district shall be used for commercial/office purposes. Floors above or below the main floor may be used for other purposes such as residential or storage.
- c. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential district and so that no glare is visible to any traffic on any public street.
- d. All buildings and developments shall include a direct, clear, and safe pedestrian connection from adjacent public sidewalks to the entrances of buildings within the development.
- e. A bufferyard consisting of a solid or semisolid fence, hedge or wall at least six (6) feet, but not more than eight (8) feet high and having a density of not less than seventy percent (70%) per square foot shall be provided adjacent to any adjoining residential district unless the adjacent residential district and the commercial development are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner(s) of the property.
- f. Any modification of a current storefront in the commercial district, south of the railroad tracks, must apply for a building permit, to be brought before the planning and zoning committee for their recommendation. (*Ordinance No. 468a, 4-9-2021*).

5.6 "M" INDUSTRIAL DISTRICT

- 1. **Intent:** The intent of the industrial district is to provide locations for those activities which required more intense uses of land.
- 2. **Permitted Uses:** In the "M" Industrial District, buildings, structures and land shall be used only for the following purposes:
 - a. Any industrial use meeting the performance standards described below, except those uses specifically permitted as conditional uses.
 - b. On-site and off-site sign.
 - c. Public utilities.
 - d. Offices in connection with any permitted industrial use.
 - e. Raising field crops and horticulture.

3. **Performance Standards:**

- a. Noise. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness, and, as measured at any property line, shall not exceed the following intensity in relations to sound frequency:

Octave Band in Cycles Per Second	
0-50	75 Decibels
150-300	67 Decibels
300-600	60 Decibels
600-1200	55 Decibels
1200-2400	50 Decibels
2400-4800	43 Decibels
Above 4800	40 Decibels

Such sound levels shall be measured with a sound level meter and an octave band analyzer conforming with specifications of the American Standards Association.

- b. Air Pollution. Uses shall meet all state and federal air quality standards.
- c. Odor. The emission of odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines in prohibited.
- d. Glare, Heat or Radiation. Every use shall be so operated that there is no emission of heat, glare or radiation visible or discernible beyond the property line.
- e. Vibration. Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line.
- f. Sewage and Liquid Wastes. No operation shall be carried on which involves the discharge into a sewer, watercourse, river or the ground of liquid wastes of any radioactive nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.

- g. Fire Hazard. All flammable substances involved in any activity or use shall be handled in conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the City Council.
 - h. Physical Appearance. Except for the display of operable or new merchandise and parking areas, the required front yard shall be landscaped with grass, trees and shrubs.
4. **Conditional Uses:** The following conditional uses may be permitted in the M District subject to approval procedures outlined in this Ordinance:
- a. Industrial Uses Not Listed as a Permitted Use.
 - b. Non-Commercial Wind Energy Systems.
 - c. Communication Towers.
 - d. Meteorological Towers.
 - e. Commercial Wind Energy Systems.
 - f. Salvage yards.
 - g. Large or small box discount stores or chain or franchised stores and businesses. (*Ordinance No. 469, 8-12-2021*).

5. **Minimum Lot and Maximum Height Regulations:**

Regulator	Permitted Uses
Minimum Lot Area (sq. feet)	10,000
Minimum Lot Width (feet)	100
Minimum Yards (feet)	
Front Yard	50
Side Yard	25
Street Side Yard	50
Rear Yard	25

6. **Other Site Guidelines:**

- a. A bufferyard consisting of a solid or semi – solid fence or wall at least six (6) feet, but not more than eight (8) feet high, and having a density of not less than seventy percent (70%) per square foot, shall be provided adjacent to an adjoining residential district and the industrial district are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property.
- b. No outdoor storage shall be permitted except for the display of merchandise for sale to the public.
- c. No building shall be used for residential purposes except that a watchman may reside on the premises.

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SECTION 6

COMMUNICATION TOWER REGULATIONS

6.1 **CONDITIONAL USE PERMIT REQUIREMENT.**

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

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

6.2 **MINIMUM REQUIREMENTS.**

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

6.3 **SPECIAL REQUIREMENTS.**

1. The placement of wireless telecommunication antennas or towers on water tower sites will be allowed only when the following additional requirements are met:
 - a. The applicant's access to the facility will not increase the risks of contamination to the City's water supply;
 - b. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility;
 - c. The presence of the facility will not increase the water tower or reservoir maintenance cost to the City; and
 - d. The presence of the facility will not be harmful to the health of workers maintaining the water tower or reservoir.
2. In no case shall towers or antennas be allowed in designated prairie or other conservation or wildlife area unless they are to be installed in areas, which currently contain tower facilities or antennas, and in no case shall towers or antennas be allowed in areas without road access to the base of the tower, antenna support structure or facilities.

3. Tower setbacks shall be measured from the property line of the parcel on which it is located to the base of the tower. The setback shall not be less than one hundred ten percent (110%) of the tower height as measured from the ground level.
4. Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.
5. No signals, lights or signs shall be permitted on towers unless required by the FCC, the FAA, or the City. No banners or similar devices or materials may be attached to the towers, antenna support structure or antennas.
6. Ground level equipment, buildings, and the tower base shall be screened from public streets and residentially zoned properties and shall not encroach in the building setback. Landscaping shall be required to screen as much of the support structure as possible. The City may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

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

SECTION 7

WIND ENERGY SYSTEM REGULATIONS

7.1 **GENERAL STANDARDS.** All Wind Energy Systems (WES) located within the Extra Territorial Jurisdiction of the City of Oshkosh shall conform to the following general standards:

1. Clearance of rotor blades or airfoils for commercial/utility Wind Energy Systems must maintain a minimum of twenty (20) feet of clearance between their lowest point and the ground. Noncommercial WES shall have a minimum clearance of twelve (12) feet between their lowest point and the ground.
2. On site signage shall be limited to identification signs not to exceed six (6) feet and high voltage warning signs.
3. All wind turbines part of a commercial/utility WES shall be installed with a monopole tower.
4. All commercial/utility WES shall obtain a FAA permit and comply with all aviation warning requirements established by the FAA regulations and permit.
5. All commercial/utility WES shall be white, grey or other neutral non obtrusive, non-reflective color. Blades may be black in order to facilitate deicing.
6. All on site communication and transmission feeder lines installed as part of the commercial/utility WES shall be underground.
7. Commercial/utility WES shall not exceed fifty (50) dba at the nearest occupied dwelling.
8. Commercial/utility WES shall obtain FCC permits where necessary and provide evidence of permit approval.
9. The commercial/utility WES, at the time of application for a conditional use, shall identify all county roads to be used for construction and maintenance of a WES. The conditional use applicant in coordination with the Oshkosh Street Commissioner shall conduct a road condition survey and written report prior to construction. The conditional use applicant shall be responsible for restoration of the road(s) and bridges to preconstruction standards as established in the report. The applicant shall be responsible for the cost of retaining outside engineering firm(s) to evaluate road condition and cost for restoration if so determined by the Planning Commission.
10. The commercial/utility WES applicant shall be responsible for immediate repair of damage to drainage or irrigation systems stemming from construction, operation or maintenance of the WES.
11. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as oils, lubricants and solvents shall be removed from the site promptly and disposed of in accordance with all applicable local, State and Federal regulations.

12. A commercial/utility WES shall provide a decommissioning plan to the City Council at the time application is made. The plan shall include the method or means of removing the WES and accessory facilities, parties responsible for removal and site cleanup, evidence of a damage insurance liability policy, schedule for removal not to exceed ninety (90) days from approval of the plan. The applicant shall set aside three-fourths (3/4) of one percent (1%) of each towers' cost for future decommissioning upon approval of the application by the City Council. The funds are to be placed in a cash escrow account with a local bank.
13. A Conditional Use Permit for a commercial/utility WES shall be considered null and void if the WES has not begun within one (1) year following issuance of the WES Conditional Use Permit or produced energy for one (1) year, unless a plan is submitted to the Planning Commission outlining the steps and schedule for returning the WES to service.
14. A contractual agreement referred to as a Developers Agreement between the City Council and the commercial WES developer shall be created and made part of the Conditional Use Permit. The agreement shall detail road improvements, road reconstruction, additional right-of-way needs, location of transmission lines, easements, bond, and payment requirements.

7.2 NONCOMMERCIAL WIND ENERGY SYSTEMS. All noncommercial wind energy systems located within the Extra Territorial Jurisdiction of the City of Oshkosh shall conform to the following standards:

1. Shall be systems installed to provide for full or partial onsite consumption of utility supplied electricity.
2. **Setbacks:** Where allowed, Noncommercial WES shall be located in the rear yard of any Residential Districts; further, all towers shall adhere to the setbacks found in Table 2 within this Chapter.
3. **Tower Height:** In all districts except the Agricultural Residential District tower heights shall not exceed thirty (30) feet. Any tower exceeding thirty (30) feet shall be required to submit an application for conditional use. In the Agricultural District there is no height limitation except that imposed by FAA regulations.
4. Noncommercial WES shall not exceed fifty (50) dba, as measured at the closest neighboring inhabited dwelling unit. Temporary exceptions may include severe wind storms or power outages requiring higher demand.
5. Compliance with this Ordinance:
 - a. All noncommercial WES will require a permit.
 - b. Permit application will include an engineered drawing showing compliance with nationally recognized building codes. The permit shall include standard drawings of the tower structure, turbine structure, footings, guy wire anchors and a professional engineers stamp.

- c. Evidence of notification to the servicing utility informing the utility that the noncommercial WES will be connected to the utilities grid.
- d. Evidence that noncommercial WES, when located within one thousand three hundred and twenty (1,320) feet of any waters of the United States, has complied with the requirements found in Checklist 1 below.

7.3 **METEOROLOGICAL TOWERS.** All meteorological towers located within the Extra Territorial Jurisdiction of the City of Oshkosh shall conform to the following standards:

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

7.4 **COMMERCIAL/UTILITY WIND ENERGY SYSTEMS.** All commercial/utility wind energy systems located within the Extra Territorial Jurisdiction of the City of Oshkosh shall conform to the following standards:

1. Commercial/utility WES shall be permitted as conditional uses within the districts as seen in Table 1 below.
2. The request for a Conditional Use Permit shall include the following:
 - a. Name(s) of project applicant.
 - b. Name(s) of project owner.
 - c. Legal description of the project.
 - d. Documentation of land ownership or lease of the property.
 - e. Site plan showing property lines, setbacks, proposed accessory buildings, wind turbine locations, transmission lines, adjacent subdivisions, homes or other structures, county and service roads, legend and scale, signature of surveyor or engineer.
 - f. Narrative description of the project including number, type, generating capacity, tower height, rotor diameter, total height of all wind turbines including meteorological towers, height of transmission lines and capacity, lastly proposed users of project.

- g. Overview map of the area showing topography, location of WES owned or not owned by the applicant, public or private airfields within one mile of the proposed WES and other communication towers.
 - h. An acoustical report that certifies the WES will meet the noise requirements of this ordinance.
 - i. Evidence that other tower owners or lessees have been notified of the proposed WES and there will not be interference in communications.
 - j. An Environmental Assessment Worksheet shall be prepared by a qualified environmental engineering firm when a commercial WES is located within avian migratory routes. The Environmental Assessment Worksheet shall contain an avian assessment, map of the migratory routes and recommended mitigation practices.
 - k. A decommissioning plan as required by this Ordinance.
 - l. Meteorological and commercial/utility towers located within one (1) mile of any waters of the United States shall submit an Environmental Assessment Worksheet from the U.S. Environmental Protection Agency. Further a Conditional Use Permit shall not be issued until the applicant has completed Checklist 2 below.
 - m. There shall be a flicker/strobe effect study provided.
3. Aggregated Projects:
- a. Aggregated projects may be jointly submitted as a single application and reviewed as a single application, including public notices, public hearing and subsequent approvals or denials.
 - b. Permits may be issued and recorded separately.
 - c. Aggregated projects proposed shall be considered conditional uses and follow the requirements of this Ordinance.
4. Joint projects will be assessed as one project.

5. Setbacks: All commercial/utility towers shall adhere to the setbacks found in Table 2 below.

CHECKLIST 1
Small Wind Energy Systems

	U.S. Fish and Wildlife Service
	Nebraska Game and Parks Commission
	Nebraska State Historical Society
	Nebraska Public Power District
	City of Oshkosh Utilities

CHECKLIST 2
Commercial Wind Energy Systems

	U.S. Fish and Wildlife Service
	U.S. Army Corps of Engineers
	Nebraska Department of Aeronautics/Federal Aviation Agency (FAA)
	Nebraska Game and Parks Commission
	Nebraska State Historical Society
	Nebraska Department of Natural Resources
	Nebraska Department of Roads
	Nebraska Public Power District
	City of Oshkosh Utilities

TABLE 1

Zoning District	Communication Tower	Meteorological Tower	Non-Commercial WES	Commercial WES
Agriculture District (A)	Conditional Use	Conditional Use	Conditional Use	Conditional Use
Residential District (R-1)	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Residential District (R-2)	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Highway Commercial District (H)	Conditional Use	Conditional Use	Conditional Use	Not Permitted
Commercial District (C)	Conditional Use	Conditional Use	Conditional Use	Not Permitted
Industrial District (M)	Conditional Use	Conditional Use	Conditional Use	Not Permitted

TABLE 2

	Wind Turbine, Non Commercial	Commercial and Utility WES	Meteorological Towers
Property Lines	1.1 times the total height.	½ blade diameter or 150', whichever is greater	1.1 times the tower height
All Road Rights-of-Way**	1.1 times the total height.	½ blade diameter or 150', whichever is greater	1.1 times the tower height
Other Public or Private Utility Easements	1.1 times the total height.	½ blade diameter or 150', whichever is greater	1.1 times the tower height
Public and Private Airfields	Per FAA regulations	Per FAA regulations	Per FAA regulations
Irrigation Canals	1.1 times the total height.	½ blade diameter or 150', whichever is greater	1.1 times the tower height

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

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

SECTION 8

SUPPLEMENTARY REGULATIONS

8.8 SUPPLEMENTARY REGULATIONS

1. **Projections from Buildings:** Cornices, eaves, canopies, belt courses, sills, ornamental features and other similar architectural features may project not more than two feet into any required yard or into required open spaces.
2. **General Exception to Lot Size Requirements:** If, at the time of passage of this ordinance, a lot, or the aggregate of contiguous lots or land parcels held in a single ownership has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the district subject to the other requirements of the district and providing, if there is any area deficiency, residential use shall be limited to a single family dwelling.
3. **General Exception to Building Height Limitations:** The following types of structures or structural parts are not subject to the building height limitations of this ordinance: chimneys, cupolas, tanks, church spires, belfries, domes, derricks, monuments, fire and hose towers, observation towers, transmission tower, smokestacks, flagpoles, radio and television towers, masts, aerials, cooling towers, water towers, elevator shafts, windmills, conveyors and other similar projections.
4. **Street Frontage:** No lot shall contain any building used for any purpose other than agricultural unless such lot abuts on a street or unless it has an exclusive unobstructed private easement of access or right-of-way at least 20 feet in width to a street, provided there shall not be more than one single family dwelling for each easement.
5. **Parking, Storage, or Use of Major Recreational Equipment:** No major recreational equipment such as boats, boat trailers, travel trailers, pick-up campers or coaches, tent trailers, and the like, shall be parked or stored on any lot in a residential district except in a carport or enclosed building or behind the nearest portion of a building to the street, provided however, that such equipment may be parked anywhere on residential premises for not to exceed twenty-four hours during loading or unloading. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use.
6. **Parking and Storage of Certain Vehicles:** Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored in any district other than in completely enclosed buildings, except in permitted auto salvage yards.
7. **Water and Sewer Facilities:** In all districts where a building, structure or use hereafter established requires the use of water and sewage disposal facilities,

and any other water or sewage disposal facilities are hereafter provided for an existing building, structure or use, such facilities shall be provided in accordance with this ordinance. The location, construction, connection and use of all water and sewage disposal facilities hereafter provided, except those to be used for livestock or other non-human purposes, shall be approved and comply with all city, county and state codes and regulations.

8. **Home Occupation:** Home Occupations shall be subject to the following:
 - a. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and shall be used in the conduct of the home occupation;
 - b. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, non-illuminate, and mounted flat against the wall of the principal building;
 - c. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided off the street and other than in the required front yard;
 - d. No outdoor storage of materials or equipment used in the home occupations shall be permitted;
 - e. No equipment or process shall be used in such home occupation which creates noise, vibration glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.
9. **Signs:** All signs in all districts shall conform to the following requirements:
 - a. All signs and sign structures shall be kept in good repair and in a proper state of presentation. Signs which are abandoned shall be removed within thirty days following abandonment.
 - b. No sign or sign structure shall be erected at any location where it may interfere with, obstruct the view of, or be confused with any unauthorized traffic sign, signal or device, or is a hazard to traffic. Beacon and flashing signs are prohibited.
 - c. If any non-conforming sign is damaged exceeding two-thirds of its replacement value, it shall not be rebuilt; provided however, that nothing herein contained shall prevent maintenance of non-conforming signs.
 - d. No sign or attachment thereof shall be located closer than ten feet to any property line or dedicated right-of-way, except in the "C" Commercial District.
 - e. Signs in the "H" Highway Commercial and "M" Industrial Districts may be twice the maximum height limit permitted in the district regulations.
10. **Mobile Home Parks:** The following shall apply in addition to all other regulations of the City with respect to mobile home parks:

- a. A mobile home park shall be no closer than twenty five feet (25') to a street or road right of way or other property line.
- b. A mobile home park shall conform to the following additional requirements:

Regulator	Single-Wide	Double-Wide
Minimum Lot Area (sq. feet)	3,000	4,000
Minimum Lot Width (feet)	40	40
Minimum Yards (feet)		
Front Yard	25	25
Side Yard	5	5*
Street Side Yard	10	10
Rear Yard	5	5
Maximum Height (feet)	35	35

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

- i. Separation between Mobile Home Units. The minimum separation between a mobile home unit and an attached accessory structure and any other mobile homes units and/or accessory structure shall be 20 feet. No mobile home shall be located closer than thirty (30) feet from any building within the mobile home park except a private storage shed or garage.
- ii. Fire Safety Standards. No mobile homes shall have aluminum wiring. When liquefied petroleum gas is used in a mobile home park, containers for such gas shall be in conformance with State of Nebraska Fire Marshall requirements and shall be the liquefied petroleum gas containers approved by the United States Commerce Commission for its intended purpose, and shall be attached to the mobile home in a manner approved by the Liquefied Petroleum Gas Association. No mobile home park shall be located within the City limits unless City fire protection facilities are available and the applicant for the mobile home license, in his/her application, clearly manifests his/her intention to connect thereto before such mobile home park is occupied. Approved fire hydrants shall be located within six hundred (600) feet of each mobile home.
- iii. Stands and Skirts. Each manufactured home shall be placed upon a masonry or other approved blocking; and each home shall be equipped with skirts on all sides, such skirts to be material harmonious to the manufactured home structure and installed within thirty (30) days after placement of the manufactured home.
- iv. Parking. At least two (2) parking spaces for each mobile home shall be provided on each mobile home space. Such parking spaces shall be off the public street or private drive, and each space shall not be less than nine (9) feet by twenty (20) feet in size and shall be hard surfaced.
- v. All State of Nebraska Health Department requirements for mobile homes and mobile home parks must be complied with.

- vi. Each mobile home lot shall have attachments for waste disposal and water supply facilities shall be properly connected to City sewer and water systems.
- 11. **Livestock:** Livestock is not permitted in the City limits of Oshkosh without receiving a livestock permit from the City of Oshkosh City Council.
- 12. **Accessory Buildings in an R-1 or R-2 District:**
 - a. No accessory buildings or uses shall be erected or installed in any required front yard, and no detached accessory building shall be erected closer than five (5) feet to any other building.
 - b. No accessory building shall exceed 20 feet in height.
 - c. Accessory buildings may be located in the rear yard and side yard, but shall not be closer than five (5) feet to the rear or side lot-line except that if the building has a vehicular alley entrance, the setback of the structure shall not be less than ten (10) feet from the alley line.
 - d. No accessory structure shall be constructed upon a lot until the construction of the principal structure has been started or be used for dwelling purposes.
 - e. Detached accessory buildings shall be permanently anchored to a foundation.
 - f. Any accessory building shall have a minimum vertical rise of two and one-half (2 ½) inches in each twelve (12) inches of horizontal run and a building design that is harmonious with the character of the neighborhood. No Quonset type buildings will be permitted. No portion of any accessory building shall be covered with unpainted galvanized metal or corrugated sheets or panels. The use of galvanized tin or "strong barn" exterior walls of accessory buildings shall not be permitted.
- 13. **Sight Triangle:** On a corner lot in all districts, except the "C" Commercial District, development shall conform to the requirements of the sight triangle as defined by this regulation.
- 14. **Access to Commercial and Industrial District:** No land which is located in a residential district shall be used for a driveway, walkway or access to any land which is located in any Commercial or Industrial district.
- 15. **Open Storage:** The storage of salvage or scrap materials, inoperable motor vehicles, house hold goods or furniture, or business equipment or materials for more than forty-eight (48) consecutive hours shall not be allowed in any residential district unless such items are stored in a completely enclosed building.
- 16. **Carports:** are accessory buildings to be built as a permitted use in Agricultural, Industrial, Commercial, Highway Commercial, R1 and R2 to follow code requirements for accessory buildings as set forth in 8.8 with the exception of prefabricated or manufactured carports that are designed without a 12 inch eave are permitted. All carports must be attached to permanent concrete footings and may or may not be enclosed. (*Ordinance No. 469B, 12-9-2021*).

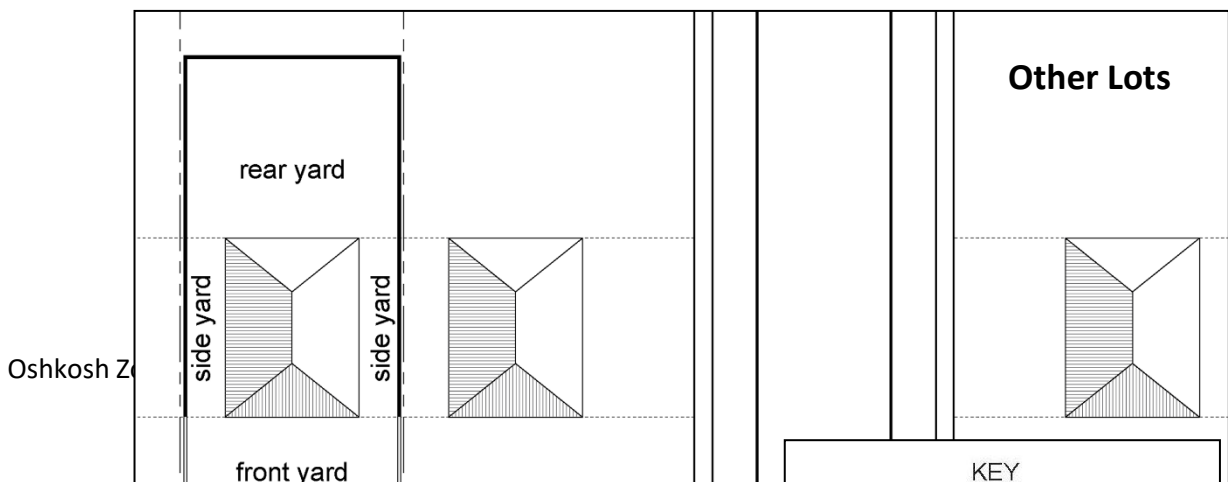
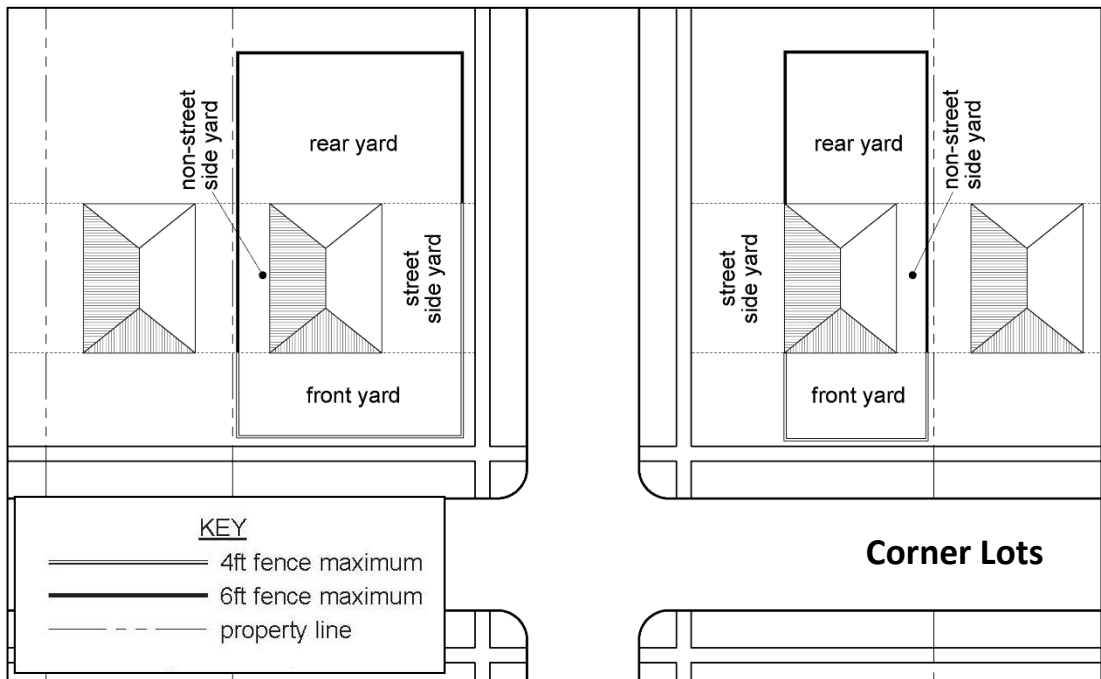
17. **Manufactured Homes:** All mobile/manufactured homes located outside of a Mobile Home Park shall meet the following standards:
- a. The home shall have no less than nine hundred (900) square feet of floor area.
 - b. The home shall have no less than an eighteen (18) foot exterior width.
 - c. The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.
 - d. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single family construction.
 - e. The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.
 - f. The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
 - g. Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.
 - h. The home must meet building code requirements adopted by the City.
 - i. The home shall be set on a permanent masonry or concrete foundation.

Manufactured homes that do not meet the above requirements can be located within a Mobile Home Park.

18. **Fences:** Except as otherwise provided in other City codes and regulations, the following regulations shall apply to the construction of fences in the R-1 and R-2 Residential Districts:
- a. No fence shall be constructed which will constitute a traffic hazard or create a visual obstruction for streets or driveways.
 - b. Fences may be constructed on the property line as long the fence complies with all street, utility, and other applicable easements.
 - c. All fences must remain on the property and not extend beyond your property lines.
 - d. No fence shall be constructed in a manner or be of a design as to be hazardous to persons or animals.
 - e. Any fence that fall into disrepair shall be removed or repair within 30 days after receiving notification from the City of Oshkosh. Installation of a fence may not obstruct any manhole or inlet cover nor disturb or impede existing drainage pattern/swale or natural water flow.
 - f. The finished side of the fence must face to the outside of the property. Visible supports and other structural components shall face in toward the owner's property.
 - g. A fence height shall be measured from the top of the fence to the lowest grade at the base of the fence.
 - h. Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning or missing sections, broken supports, non-uniform height, and growing or noxious vegetation. The City may order any

dilapidated, dangerous, or non-conforming fence removed at the owner's expense.

- i. Any fence, hedge or wall shall provide access to utility workers for meter reading and maintenance of the utility.
- j. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation or which fence shall adversely affect the public health, safety and welfare.
- k. Fences shall be constructed of commonly accepted, material for residential fences such as wood, plastic, vinyl, PVC/resin, concrete, stone, masonry, wrought iron, or chain link; shall be structurally sound; shall have a neat, professional and finished appearance. The City Council may approve other materials.
- l. Fences shall not be constructed of material not commonly used for residential fences such as non-treated or natural wood products, metal, fiberglass, barbed wire, wooden pallets, chicken wire, electric fencing, or corrugated metals.
- m. No fence shall exceed four feet (4') in the front yard or street side yard and no fence shall exceed six feet (6') in side or rear yards.



SECTION 9

SUBDIVISION REGULATIONS

9.1 **PURPOSE**

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

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

9.2 **APPLICABILITY**

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

1. Each separate principal use/building within the jurisdiction of this Ordinance shall be situated on a separate and single subdivided lot of record unless otherwise provided in Ordinance.
2. No subdivision of land shall be permitted within the jurisdiction of this Ordinance unless a plat is approved in accordance with the provisions of this ordinance. Further, no lot in a subdivision may be sold, transferred or negotiated to sell, no permit to erect, alter, or repair any building upon land in a subdivision may be issued, and no building may be erected in a subdivision unless a final plat has

been approved by the Oshkosh City Council and recorded with the Garden County Register of Deeds.

3. These regulations shall not apply to the following:
 - a. To a subdivision of land whereby the smallest parcel created or remaining is more than ten (10) acres.
 - b. The subdivision of burial lots in cemeteries.
 - c. A change in the boundary between adjoining lands which does not create an additional lot or does not result in a nonconformity of an existing lot.

9.3

PROCEDURES

1. Pre-Application Meeting. Prior to the subdivision of any land, the subdivider or subdivider's agent shall prepare a sketch plan and shall discuss informally with the Zoning Administrator the property proposed for subdivision, with reference to these subdivision regulations and procedures, zoning regulations and controls, and the city's comprehensive and major street plans.
2. Plat Submission Requirements. The subdivider shall submit to the City Clerk five (5) copies of the preliminary plat and supplemental material specified, with written application for conditional approval, at least ten (10) days prior to the regular meeting of the Oshkosh Planning Commission at which the request will be heard.
3. Fees. Fees structures are determined by the City.
4. Scale and Preliminary Plat Contents. Preliminary plats shall be a scale of one (1") inch to one hundred (100') feet, and shall be prepared with the following information:
 - a. Name, location, acreage, owner and designer of subdivision with legal description as shown by land records.
 - b. Present and proposed zoning.
 - c. Date, north point and graphic scale.
 - d. Location of property lines, roads, existing utilities with size of lines, and other underground installations and easement.
 - e. Names of adjoining properties or subdivisions.
 - f. Proposed utility system, including water, sewer and paving.
 - g. Dimensions and lot lines.
 - h. Location of proposed drainage.
 - i. Contours at two (2) feet minimum intervals at 1" = 100' scale.
 - j. Proposed improvements and grading concepts.
 - k. Location of existing buildings.
 - l. Proposed easements, dedications and reservations of land required.
5. Notification of Improvement Schedule. Subdivider shall indicate by a letter when improvements as required will be provided.
6. Notification of County Planning Commission. The City shall notify the Garden County Planning Commission of any proposed subdivision plat and provide the Commission with all available materials on the proposed plat, when such

proposed plat lies partially or totally within the extraterritorial subdivision jurisdiction being exercised by that Municipality in such County. The Commission shall be given four (4) weeks to officially comment on the appropriateness of the design and improvements proposed in the plat. The review period shall run concurrently with subdivision review activities of the City after the Commission receives all available material for a proposed subdivision plat.

7. Notification of School Board. At least ten (10) days prior to the Oshkosh Planning Commission meeting at which the preliminary plat is to be considered for approval, the Planning Commission shall submit a copy of the proposal to the School Board of each School District which the proposed development affects, and shall notify the School Board of the meeting date. Copies of the plat may be submitted to any other agency which may be affected.
8. Approval or Rejection. After review of the preliminary plat and negotiations with the subdivider, the Oshkosh Planning Commission shall reject or conditionally approve the preliminary plat, within thirty (30) days after the official meeting at which the plat was considered.
9. Approval is Conditional. Approval of a preliminary plat shall not constitute approval of the final plat; it shall be deemed an expression of approval or conditional approval of the submitted plat, as a guide for the preparation of the final plat, which will be subject to further consideration by the Oshkosh Planning Commission and the Oshkosh City Council. Any conditional approval of the preliminary plat shall be effective for a period of one (1) year unless an extension is granted by the Planning Commission.
10. Public Works Plan. Upon approval of the Preliminary Plat by the Oshkosh Planning Commission and Oshkosh City Council, the approved Preliminary Plat will be forwarded to City Engineer for preparation of a Public Works Plan. Said Public Works Plan will outline the improvement needs, in conjunction with the City's present utility, drainage and street system and tentative costs.
11. Final Plat Submission Requirements. Final plats, showing entire concept, shall be submitted to the City Clerk within one (1) year of approval of the preliminary plat, unless an extension is granted by the Planning Commission. The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and State statutes; and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of these regulations.
12. Scale and Final Plat Contents. One (1) original mylar and five (5) copies of the final plat and other exhibits required for approval shall be submitted. The final plat shall be drawn in ink on mylar and shall be at a scale of one (1') inch to one hundred (100') feet or larger. The final plat shall show the following:
 - a. Date, title, name and location of subdivision.
 - b. Streets and street names, lots, setback lines, lot numbers, etc.
 - c. Graphic scale and north arrow.

- d. Monuments (ferrous) 1/2" diameter, minimum 24" minimum length
 - e. Dimensions, angles and bearings, and complete legal description of the property.
 - f. Sufficient survey data to reproduce any line on the ground.
 - g. Names of adjoining subdivisions.
 - h. Location and dimensions of any easements.
 - i. Purpose for which sites are dedicated or reserved, and the transfer of ownership of the same.
 - j. Certification by surveyor as to accuracy of survey and plat.
 - k. Certification signed and acknowledged by all parties holding title or having any title interest in the land subdivided and consenting to the preparation and recording of the plat as submitted.
 - l. Certification recording the approval by the Planning Commission.
 - m. Certification recording the approval by the City Council and the acceptance of any dedications.
13. Supplementary Data Required. The final plat shall be accompanied by:
- a. Public Works Plan of all required public improvements, approved by an Engineer.
14. Professional Assistance. The City Council or the Planning Commission may request such professional assistance as it deems necessary to properly evaluate the plats submitted.
15. Planning Commission Recommendations. The Planning Commission shall reject or approve the final plat and have prepared a recommendation to the City Council recommending rejection or approval. All reasons for recommending rejection shall be clearly stated. Notification of approval or rejection by the Planning Commission or City Council shall be given the subdivider within sixty (60) days after submission of the final plat to the Planning Commission.
16. Administrative Subdivision. In the event that a proposed subdivision does not involve the platting and dedication of streets, extension of utility systems, change in subdivision class and type, change in zoning district, change in surface drainage, and will not result in the creation of more than three (3) lots of record, the subdivider may apply for administrative subdivision under the provisions of this section. The utilization of the administrative subdivision does not relieve the subdivider of its obligation to comply with the regulations relating to the Streets, Alleys, Sidewalks and Driveways and Utility and Drainage Facilities sections of these Zoning Regulations. The procedure for such application will be as follows:
- a. Application will be made to the City Council and the City Council may act or may at their option refer the application to the Planning Commission. In the event it is referred to the Planning Commission, the procedures outlined under the final plat provisions shall be followed.
 - b. The subdivider shall submit an original and five (5) copies of the plat. The original shall be drawn in ink on tracing cloth, mylar, or similar material, and shall be at a scale of 1 'to 100 or larger. The plat shall contain the following:

- i. Date, title, name, and location of the subdivision.
 - ii. Names and locations of abutting streets and lots identifying street names and lot and block numbers.
 - iii. Identification of the new lot and block numbers and set back lines.
 - iv. Graphic scale and true north point.
 - v. Monuments.
 - vi. Dimensions, angles and bearings and complete legal description of the property.
 - vii. Sufficient surveying data to reproduce any line on the ground.
 - viii. Location, dimensions, and purposes of any existing easements.
 - ix. Certification by surveyor certifying to the accuracy of the survey and plat.
 - x. Certification signed and acknowledged by all parties holding title or having any title interest in the land subdivided and consenting to the preparation and recording of the plat as submitted.
- c. The plat shall be accompanied by:
- i. Protective covenants in form for recording if such are desired by the subdivider.
 - ii. For subdivisions adjoining or touching the boundaries of Oshkosh's Corporate Limits; a tract or area for which annexation proceedings have been commenced; an approved subdivision which touches or adjoins Oshkosh's Corporate Limits, a petition signed by the owner or owners requesting annexation to the City.
 - iii. Utility easements signed by the owner or owners to permit all lots created access to all utilities available in the City, including but not limited to, sanitary sewer, storm sewer, water, electrical, telephone, and cable television.

9.4 SUBDIVISION IMPROVEMENT PROCEDURE.

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

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

2. Inspection and Certification. The City or other authorized person shall regularly inspect construction of required improvements for defects. Upon completion of the improvements, the City or other authorized person shall file with the City Council a statement either certifying that the improvements have been completed in the specified manner or listing defects in those improvements

which do not meet the requirements of the approved improvement plans and specifications.

9.5 **DEDICATION OF PUBLIC LAND**

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

9.6 **ANNEXATION AND RECORDING OF PLAT**

1. Subdivision Annexation of Adjoining or Contiguous Properties. All subdivisions or additions laid out adjoining or contiguous to the corporate limits shall be included within the same and become a part of the municipality for all purposes whatsoever, upon approval of and acceptance by Resolution of the City Council.
2. Subdivision Annexation: Petition for Annexation. Any subdivision in which there are lands dedicated to the City or any subdivision serviced by public utilities shall be annexed to the City. Before approval for the final plat is given, the Municipal Body shall receive a Petition for annexation from the owners of the subdivided properties.
3. Subdivision Annexation: Adoption Plan by Resolution. The City Council desiring to annex land under the authority of this section shall first adopt both a resolution stating that the City is considering the annexation of the land and a plan for extending City services to the land. The resolution shall state:
 - a. The time, date and location of the public hearing required below;
 - b. A description of the boundaries of the land proposed for annexation; and
 - c. That the plan of the City for extension of City services to the land proposed for annexation is available for inspection during regular business hours in the office of the City Clerk.

The plan adopted by the City Council shall contain sufficient detail to provide reasonable persons with a full and complete understanding of the intentions of the City for extending City services to the land proposed for annexation. The plan shall:

- a. State the estimated cost impact of providing the services to such land.
- b. State the method by which the City plans to finance the extension of services to the land and how any services already provided to the land will be maintained.
- c. Include a timetable for extending service to the land proposed for annexation, and
- d. Include a map drawn to scale clearly delineating the land proposed for annexation, the current boundaries of the City, and the proposed boundaries of the City after annexation and the general land-use pattern in the land proposed for annexation.

A public hearings on the proposed annexation shall be held within sixty days following the adoption of the resolution to allow the City Council to receive testimony from interested persons. The City Council may recess the hearing, for good case, to a time and date specified at the hearing.

A copy of the resolution providing for the public hearing shall be published in the official newspaper or the City at least once not less than ten days preceding the date of the public hearing. A map drawn to scale delineating the land proposed for annexation shall be published with the resolution. A copy of the resolution providing for the public hearing shall be sent by first-class mail, following its passage, to the school board of any school district in the land proposed for annexation.

9.7 **VARIANCES.**

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

9.8 **PUBLIC SITES AND OPEN SPACES.**

1. **Recreation Standards.** The Oshkosh Planning Commission may require that land be dedicated for parks and playgrounds or other recreation purposes. Such areas shall be shown and marked on both the preliminary and final plat, as “Dedicated for Park and/or Recreation Purpose” The developer shall dedicate all such recreation areas to the City of Oshkosh as a condition of final subdivision plat approval. The Commission may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than one (1) acre be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area.
2. **Recreation Sites.** Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield, or for other recreation purposes; and shall be improved by the developer to the standards required by the Planning Commission, which improvements shall be included in the

performance bond, A recreation site shall have a total frontage on one (1) or more streets of at least one hundred feet (100'), and no other dimension of the site shall be less than one hundred feet (100') unless it is for a designated linear park. The Planning Commission may refer any subdivision proposed to contain a dedicated park to the Oshkosh Park Board for a recommendation. All land to be reserved for dedication to the City of Oshkosh for park purposes shall have prior approval of the City Council and shall be shown marked on the plat "Dedicated for Park."

9.9 **VACATIONS.**

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

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

9.10

AMENDMENTS.

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

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SECTION 10

CONDITIONAL USES

10.1 **PURPOSE**

In order to provide for the most appropriate use of land throughout the district and giving the maximum consideration to the character of the district and its peculiar suitability for particular uses in the area affected by this ordinance, special exceptions in the form of conditional uses are hereby established.

10.2 **PROCEDURE**

The City Council may, by special permit after referral to and recommendation from the Planning Commission and public hearing as described in this Ordinance, authorize the establishment of special exceptions in the form of conditional uses designated in the district regulations if it is found that the location and characteristics of the use will not be injurious to the health, safety, morals and general welfare of the area.

10.3 **STANDARDS**

The Conditional uses shall conform to the intent and purpose of this ordinance and the following requirements:

1. The use shall in all other respects conform to the applicable regulations of the district in which it is located.
2. The use shall conform to all other applicable ordinances, laws and regulations of any governmental jurisdiction.
3. The use shall have adequate water, sewer and drainage facilities approved by the City Council.
4. Ingress and egress shall be so designed as to minimize traffic congestions in the public streets.
5. The use shall be in harmony with the character of the area.
6. The proposed conditional use will not cause substantial injury to the value of other property in the vicinity in which it is to be located.
7. The Proposed Conditional Use will not cause economic harm to existing businesses in the community. (*Ordinance No. 469, 8-12-2021*).

The City Council and the Planning Commission in considering an application for a conditional use may consider, among other things, the most appropriate use of the land; the conservation and stabilization of the value of property; adequate open space for light and air; concentration of population; congestion of public streets; and the promotion of public safety, health, convenience, and comfort.

The City Council may stipulate and require such conditions and restrictions upon the conditional use and operation deemed necessary for the protection of the public interest and to secure compliance with this ordinance.

10.4 **ADDITIONAL CONDITIONAL USE REQUIREMENTS**

1. Restricted (Adult Entertainment) Businesses. All adult entertainment businesses shall be subject to the following restrictions, and no person shall cause or permit the establishment of any adult entertainment business contrary to said restrictions:
 - a. No adult entertainment business shall be open for business between the hours of twelve midnight (12:00 a.m.) and six (6) a.m.
 - b. A new adult entertainment business shall not be allowed within one thousand (1,000) feet of another existing adult entertainment business.
 - c. A new adult entertainment business shall not be located within five hundred (500) feet of any residentially zoned district or one thousand (1,000) feet of a pre-existing school, public park, or place of worship.
 - d. The provisions of this chapter shall apply to any adult entertainment businesses in existence at the time the ordinance codified in this chapter takes effect. All nonconformance shall come into compliance on or before January 1, 2016, and no such nonconforming use shall be permitted to expand in size or scope and the rights granted in this chapter shall terminate upon cessation of business, sale, or transfer of ownership of the adult entertainment business.
 - e. Measurement of distances. For the purpose of this chapter, measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult entertainment business to the point on the property line of such other business, school, church, public park or areas zoned for residential use which is closest to the said main entrance of such adult entertainment business.
 - f. No adult entertainment business shall be conducted in any manner that permits the observation of models or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window, or other opening from any public way or from any property not licensed as an adult use. No operator of an adult entertainment business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the premises which is prohibited by this code or any laws of the State of Nebraska or the United States.
 - g. No part of the interior of the adult entertainment business shall be visible from any pedestrian sidewalk, walkway, street, or other public or semipublic area.

- h. An adult entertainment business shall post a sign at the entrance of the premises, which shall state the nature of the business and shall state that no one under the age of eighteen (18) years is allowed on the premises. The sign shall comply with the City's sign regulations. This section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
 - i. Nuisance Operation: Any adult entertainment business operated, conducted or maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance, and the City Attorney may, in addition to or in lieu of prosecuting a criminal action under this chapter, commence an action or actions, proceeding or proceedings, for the abatement, removal or enjoinder thereof, in the manner prescribed by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment business contrary to the provisions of this chapter.
2. Auto wrecking yards, junk yards, salvage yards, and scrap processing yards. All Auto wrecking yards, junk yards, salvage yards, and scrap processing yards must comply with the following minimum requirements for a conditional use permit:
- a. Shall be located at least 1,320 feet from a residential district zone.
 - b. The operation shall be conducted wholly within a non-combustible building or within an area completely enclosed by a fence or wall at least eight (8) feet high. The fence or wall shall be of uniform height, color and texture, and shall be maintained by the proprietor as to insure maximum safety to the public, and preserve the general welfare of the neighborhood. No scrap, junk, or other salvaged materials may be piled so as to exceed the height of this enclosing fence or wall.
 - c. No junk or salvaged material shall be loaded, unloaded or stored either temporarily or permanently, outside the enclosing building, fence, or wall.

SECTION 11

OFF-STREET PARKING AND LOADING REQUIREMENTS

11.1 OFF-STREET PARKING REQUIREMENTS

At the time of erection of a structure or building, or at the time of enlargement, or change in use of a structure, building or land, off-street parking spaces shall be provided and maintained for all uses as follows:

Use	Area or Parking Space
Dwelling and Mobile Home	One Space per Dwelling Unit
Bowling Alley	Six Spaces for Each Alley
Hotel and Motel	One Space per Each Guest Room
Hospitals, Nursing Homes, Sanitariums	One Space for Each Two Beds
Places of Public Assembly (Auditorium), such as Churches, Theaters, Community Buildings, etc.	One Space for Each Four Seats
Offices	One Space for Each 400 sq. ft. of Floor area
Retail Sales and Service Uses such as Stores, Taverns, Restaurants, Banks, Drive-Ins, etc.	One Space per 250 sq. ft. of Gross Floor Area Eating Establishments, Clinics, (None Required in "C" Commercial District)
Schools, Elementary or Junior High	One Space per Classroom or One Space for Each Six Seats in the Auditorium, Whichever is Greater
High School	One Space for Each Six Students or One Space for Each Six Seats in the Auditorium Whichever is Greater
Manufacturing, Wholesale, Warehouses, Industrial	One Space for Each Three Employees on the Maximum Working Shift
All other business and commercial establishments not specified above	One Space For Each 300 sq. ft. of Gross Floor Area

11.2 INTERPRETATION

In the case of any building, structure, or land, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar, shall apply.

In the even several uses occupy a single building or parcel of land, the total requirement for off-street parking shall be the sum of the requirements of the several uses computed separately.

11.3 PARKING FOR PEOPLE WITH DISABILITIES

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

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

SECTION 12

AIRPORT ZONING REGULATIONS

12.1 LOCATION, BOUNDARIES, ZONES, AND HEIGHT RESTRICTIONS.

The vicinity of the Garden County Airport, located in part of the Northwest Quarter (NW¼), part of the Northeast Quarter (NE ¼), and part of the Southeast Quarter (SE ¼) of Section 35, Township 17 North, Range 44 West, in Garden County, Nebraska, from the boundaries of such airport, to a distance of three(3) statute miles in all directions from the adjacent boundaries of the airport to the extent such property is located within the corporate or jurisdictional limits of the City, is hereby declared an airport hazard area and is hereby zoned as follows:

1. Hazard area description. The Hazard Area consists of Operation Zones, Approach Zones, Turning Zones and Transition Zones. The outer boundary of the Hazard Area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the Approach and Turning Zones.
2. Zone description.
 - a. The Operation Zones shall be located along each existing or proposed runway, landing strip, or other portion of the airfield used regularly, or to be used regularly, for the landing or taking off of airplanes and shall extend two hundred (200) feet beyond the ends of each existing or proposed runway. The Operation Zone is one thousand (1,000) feet wide, or five hundred (500) feet on either side of the runway centerline for each instrument runway or landing strip. The Operation Zone for all other runways and landing strips shall be five hundred (500) feet in width.
 - b. The Approach Zones shall extend from the end of each Operation Zone and is centered along the extended runway centerlines. The Approach Zone extend ten miles from the Operation Zone, is one thousand (1,000) feet wide at the end of the zone nearest the runway and expands uniformly, at a rate of thirty (30) feet of width for each one hundred (100) feet of horizontal length, to the extent of sixteen thousand eight hundred forty (16,840) feet wide at the farthest end of the zone.

The Inner and Outer Areas of each Approach Zone shall be that portion of the Approach Zone beginning at the end of the respective or proposed Operation Zone and extending as far as three (3) miles from the respective Operation Zone. The Inner Area of the Approach Zone shall be the area extending seven thousand five hundred (7,500) feet from the Operation Zone to reach the maximum height of one hundred fifty (150) feet at the 1:50 slope. The Outer Area of the Approach Zone shall begin at the end of the Inner Area of the Approach Zone and extend as far as three (3) miles.

The Extended Area of each Approach Zone shall be the area between the outer limit of the Outer Area of the Approach Zone extending seven (7) miles

- from the Outer Area of the Approach Zone to create a total extension of ten (10) miles for the Approach Zone.
- c. The Transition Zone shall be a zone that extends outward, at a right angle to the runway centerline. The Transition Zone shall extend seven (7) feet horizontally for every one (1) foot vertically and shall end at a height of one hundred fifty feet (150) above the highest elevation on the existing or proposed runway. The Transition Zone begins at the height limit of the adjacent Approach or Operation Zone.
 - d. The Turning Zones shall comprise all portions of the Hazard Area not contained in the Operation Zones, Approach Zones, or Transition Zones. The outer limits of the Turning Zones shall be a series of points forming a line which is the horizontal distance of three (3) statute miles from the nearest points along the airport property lines.
3. Height restrictions. No building, transmission line, communication line, pole, tree, smoke-stack, chimney, wires, tower or other structure or appurtenance thereto 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:
- a. The Operation Zone height limit is the same as the height of the runway centerline elevation on an existing or proposed runway, or the surface of the ground, whichever is higher.
 - b. The Inner Area Approach Zone height limit begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every fifty feet horizontally (1:50 slope) to a maximum of one hundred fifty (150) feet above the nearest existing or proposed instrument runway end elevation.
 - c. The Outer Area Approach Zone height limit is one hundred fifty (150) feet above the nearest existing or proposed instrument runway end elevation and remains at that height limit until the three (3) mile horizontal distance.
 - d. The Extended Area Approach Zone height limit begins at one hundred fifty (150) feet at the end of the Outer Area Approach Zone and continues to rise one foot vertically for every fifty feet horizontally (1:50 slope) until the ten (10) mile extent limit.
 - e. The Transition Zone's height limit rises one foot vertically for every seven feet horizontally (1:7 slope). The height limit begins at the height limit of the adjacent Operation and Approach Zones and ends at a height of one hundred fifty (150) feet above the highest elevation on the existing or proposed runway.
 - f. The Turning Zone has a height limit of one hundred fifty (150) feet above the height elevation on the existing or proposed runway.
4. Location sketch and zoning map.
1. Boundaries, operation zones, approach zones, transition zones, and turning zones of said airport are as indicated on the Airport Zoning Map, which

accompanies and is hereby made a part of these regulations, a copy of which shall at all times be on file in the Office of the City Clerk, Oshkosh, Nebraska.

5. Permit required, exceptions, application forms and permit fees.
 - a. Permit required. It shall hereafter be unlawful to erect, construct, reconstruct, repair, or establish any building, transmission line, communication line, pole, tower, smoke-stack, chimney, wires, or other structure or appurtenance thereto of any kind or character or to plant or replant any tree or other object of natural growth, within the boundary of the zoned area of said airport without first obtaining a "permit" from the Administrative Agency.
 - b. Exceptions. In the Outer Area of Approach Zones and within the Turning Zones, no permit shall be required for any construction or planting which is not higher than seventy-five (75) feet above the elevation of the end of the nearest runway or landing strip.
 - c. Application forms. Application for a permit as required under these regulations shall be made upon a form to be available in the City Office of the City of Oshkosh, and shall indicate the approximate location, ground elevation with reference to the elevation at the end of the nearest runway or landing strip, and height of the proposed structure or planting. (Mean Sea Level Elevation)
6. Non-conforming structures.
 - a. Within the zoned area as herein before defined, no non-conforming building, transmission line, communication line, pole, tree, smoke-stack, chimney, wires, tower, or other structure or appurtenance thereto of any kind or character or object of natural growth shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow, as the case may be, to a height which constitutes a greater hazard to air navigation than existed before these regulations were adopted nor above the heights permitted by these regulations if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of thirty (30) percent or more of their original condition, or abandoned for a period of twelve months or more. Transmission lines and communication lines as referred to in these regulations shall be interpreted to mean all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the zone regulated.
7. Marking of non-conforming structures.
 - a. Whenever the Administrative Agency shall determine, or shall be notified by the Nebraska Department of Aeronautics, that a specific non-conforming structure or object exists and has existed prior to the passage of these regulations and within the zoned area herein before described at such a height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport, the owner or owners and lessor or lessors of the premises on which such structure or object is located

shall be notified in writing by the said Administrative Agency and shall within a reasonable time, permit the marking thereof by suitable lights or other signals designated by the Administrative Agency and based on the recommendations of the Nebraska Department of Aeronautics. The cost of such marking shall not be assessed against the owner or lessor of said premise.

8. Administrative agency.

- a. The City Council of the City of Oshkosh, Nebraska shall administer and enforce these regulations, and shall be the Administrative Agency provided for in Section 3-319, of the Nebraska Revised State Statutes, and shall have all the powers and perform all the duties of the Administrative Agency as provided by the Airport Zoning Act.

9. Zoning board of adjustment.

- a. The Zoning Board of Adjustment of the City of Oshkosh, Nebraska, shall be the Board of Adjustment with respect to these regulations, to have and exercise the powers conferred by Section 3-320, of the Nebraska Revised State Statutes, and such other powers and duties as are conferred and imposed by law.

SECTION 13

ADMINISTRATION AND ENFORCEMENT

13.1 ZONING ADMINISTRATOR

The City Clerk is hereby designated the Zoning Administrator who shall administer and enforce this ordinance unless the City Council has formally designated a different person to serve as zoning administrator. The Zoning Administrator may be provided with the assistance of such other persons as the City Council may direct.

13.2 BUILDING PERMIT REQUIRED

It shall be unlawful to commence or do any excavating, erecting, constructing, reconstructing, enlarging, altering, or moving of any building or structure or to use or occupy or permit the use or occupancy of any building, land or premises, or construction or connection to water or sewer facilities or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a building permit shall have been issued therefore by the Zoning Administrator stating that the proposed use of the building or land conforms to this ordinance.

Notwithstanding any provisions contained herein, development of permitted uses with the "A" Agriculture District, are exempt from the requirements of applying for and receiving building permits provided such buildings and structures must conform to all applicable provisions of this ordinance.

The Zoning Administrator may issue a temporary building permit for uses in any district for the purpose of uses and buildings incidental and required in the construction of a principal permitted use in the district in which it is located and highway construction, provided that such use be of a temporary nature and does not involve the erection of substantial buildings. Such permit shall be granted in the form of a temporary and revocable permit for not more than six months subject to conditions as well safeguard the public health, safety and general welfare.

13.3 APPLICATION OF BUILDING PERMIT

Written applications on forms prescribed and furnished by the Zoning Administrator stating such information as may be required for the enforcement of this ordinance shall be submitted and shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part, the exact location, existing and intended use of each building or structure or part thereof, the number of families or housekeeping units the building is designed to accommodate and when no buildings are involved, the location of the present

use and proposed use to be made of the lot, existing and proposed water and sanitary sewer facilities, as may be necessary to determine and provide for the enforcement of this ordinance. One (1) copy of such plans shall be returned to the owner when such plans have been approved by the Zoning Administrator together with such building permits as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon, shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

The Zoning Administrator shall issue a written permit, or denial, thereof, with reasons in writing within fifteen (15) days from the date of the acceptance of the application. Appeal may be made in accordance with Section 14 of this ordinance. Except where an extension has been obtained in writing from the Zoning Administrator permits issued shall expire within six (6) months if the work described in the permit has not begun or the use applied for has not been established and within one year if the work has not been completed.

13.4 CERTIFICATE OF OCCUPANCY

No structure or land shall hereafter used or the use changed thereof until a Certificate of Occupancy shall have been issued by the Zoning Administrator. A Certificate of Occupancy for the new building, or for the alteration of an existing structure shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or alteration of such building is completed in conformity with this ordinance.

No Certificate of Occupancy shall be issued for residential purposes for a partially completed or portion of a building. No structure shall be used as a temporary residence. Application for a change of use of land or existing structure shall be made on forms provided by the Zoning Administrator and shall state the proposed use is in conformity with this ordinance.

13.5 ENFORCEMENT BY ZONING ADMINISTRATOR

It shall be the duty of the Zoning Administrator to enforce this ordinance in accordance with its provisions. All departments, officials and public employees of the City which are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this ordinance and shall issue no permit or license for any use, building or purpose, if the same would be in conflict with the provisions of this ordinance.

The erection, construction, reconstruction, alteration, repair, conversion, maintenance or use of any building, structure, water or sewer facility, automobile trailer, house trailer or land in violation of this ordinance is hereby declared to be a violation of this ordinance.

SECTION 14

BOARD OF ADJUSTMENT

- 14.1** A Board of Adjustment is hereby established and it is resolved that the City Council shall constitute the Board of Adjustment.
- 14.2** The Board of Adjustment shall adopt rules in accordance with the provisions of this ordinance. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the City Clerk and shall be a public record.
- The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of said sections in harmony with their general purpose and intent, and in accordance with the general or specific rules therein contained.
- 14.3** An appeal to the Board of Adjustment may be taken by any person or persons aggrieved, or by an officer, department, board or bureau of the City affected by any decision of an administrative officer or planning commission. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Adjustment, by filing with the Board a notice of appeal specifying the grounds thereof. The officer or agency from whom the appeal is taken shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appeal from was taken. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Any party may appeal at the hearing in person, by agency, or by attorney.
- 14.4** The Board of Adjustment shall have the following powers:
1. To hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, decision, or refusal made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures.
 2. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any map, or for decisions upon other special

questions upon which the Board is authorized by any such regulation to pass, and

3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the proper, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any resolution, but no such variance shall be authorized unless the Board of Adjustment finds that: (a) the strict application of the resolution would produce undue hardship; (b) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; (c) the authorization of such variance will not be of substantial detriment to adjacent property and the charter of the district will not be changed by the granting of the variance; and (d) the granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the resolution.

In exercising the above mentioned powers, the Board may, in conformity with the provisions of this act, reverse, or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as shall be proper, and to that end shall have the power of the officer or agency from whom the appeal is taken. The concurring vote of 2/3 of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such resolution or to effect any variation in such resolution.

- 14.5** Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any officer, department, board, or bureau of the City, may present to the City, may present to the district court for the City, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the

court within fifteen days after the filing of the decision in the office of the Board of Adjustment.

SECTION 15

AMENDMENTS

15.1 These regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case of a protest against such change, signed by the owners of twenty percent or more of either the area of the lots included in such proposed change, or of those immediately adjacent to the sides and in the rear thereof extending three hundred feet therefrom and of those directly opposite thereto extending three hundred feet front the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the City Council. The City Council shall request and receive the advice of the Planning Commission before taking definite action on any contemplated amendment, supplement, change, modification, or repeal. No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereof, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be given by publication thereof in a paper of general circulation in the City at least one time ten days prior to such hearing.

15.2 In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than eighteen inches in height and twenty-four inches in width with a white or yellow background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor. If the record title owners of any lots included in such proposed change be non-residents of the municipality, then a written notice of such hearing shall be mailed by certified mail to them addressed to their last-known addresses at least ten days prior to such hearing. At the option of the City Council, in place of the posted notice provided above, the owners or occupants of the real estate to be zoned or rezoned and all real estate located within three hundred feet of the real estate to be zoned or rezoned, may be personally served with a written notice thereof at least ten days prior to the date of the hearing, if they can be served with such notice within the County. Where such notice cannot be served personally upon such owners or occupants in the County, a written notice of such hearing shall be mailed to such owners or occupants addressed to their last-known addresses at least ten days prior to such hearing. The provisions of this section in reference to notice shall not apply (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area

of an existing zoning district in the City zoning jurisdiction, or (2) in the event additional or different types of zoning districts are proposed, whether or not such additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the municipality, but only the requirements of Section 15.1 shall be applicable.

SECTION 16

SCHEDULE OF FEES AND CHARGES

- 16.1** The City Council shall establish a schedule of fees and charges and a collection procedure for building permits, certificates of occupancy, appeals, amendments, and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the City Council.
- 16.2** Until all applicable fees and charges have been paid in full, no action shall be taken on any application or appeal.

SECTION 17

DEFINITIONS

17.1 For the purpose of this ordinance, certain terms and words are herewith defined. The present tense included the future tense, the singular number includes the plural, and the plural number includes the singular. The word “shall” is mandatory.

1. **Abutting.** To touch, border on or be contiguous to.
2. **Abutting Owner.** Two persons or parties having property or district lines in common.
3. **Accessory Building.** A subordinate building which (1) serves a function customarily incidental to that of the main building; (2) is subordinate in area, extent, and purpose to the principal use; and (3) is located on the same lot and in the same zoning district as the principal use.
4. **Accessory Use or Structure.** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
5. **Addition.** Any construction which increases the size of the building or structure in terms of site coverage, height, length, width, or gross floor area.
6. **Adjacent.** Near, close, or abutting; across a street or highway.
7. **Administrative Subdivision.** (Also known as Administrative Plat or Minor Subdivision). Any subdivision that does not result in the creation of more than three (3) lots from any single parcel of land; requires no extension of streets, sewers, utilities, or other municipal facilities; no dedication of easements, rights-of-way, or annexation; complies with all pre-existing zoning requirements; and has not been subject to a previous administrative subdivision.
8. **Adult Use, Adult Entertainment Business.** (1) Any adult bookstore, adult hotel or motel, adult motion picture arcade, adult motion picture theater, cabaret, sexual encounter center, an establishment providing nude dancing or other live or recorded performances, or any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. (2) A business that utilizes a significant portion of its display areas to sell, rent, or lease any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the male or female genitals which predominantly pruriently, shamefully, or morbidly depicts nudity, sexual conduct, sexual excitement, or sadomasochistic abuse.
9. **Adult Use, Specified Anatomical Areas.** Less than completely and opaquely covered anal region, buttock, female breasts below a point immediately above the top of the areole, human genitals, pubic region, or human male

genitals in a discernible turgid state, even if completely and opaquely covered.

10. **Adult Use, Specified Sexual Activities.** (1) Human genitals in a state of sexual stimulation or arousal; or (2) acts of human masturbation, sexual intercourse, or sodomy; (3) fondling or other erotic touching of human genitals, pubic region, buttock, or female breast; or (4) excretory functions as part of or in connection with any of the activities set forth above.
11. **Agricultural and Ranching Activities.** Activities include the growing of field crops, sugar beets, fruit, vegetables, nursery stock and other feed grains, truck gardening; forest and forest products; horticulture; raising and grazing of livestock and poultry; animal husbandry; dairy farms; animal kennels; fur bearing animal farms; processing and selling of products produced on the premises, not including however, the confined feeding of livestock without the use of straw or other material for bedding, or packing and rendering plants.
12. **Agricultural Commodities.** Means agricultural products and livestock.
13. **Agricultural Structures.** Any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.
14. **Airport.** Any area which is used or is intended to be used for the taking off and landing of aircraft, including 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.
15. **Alley.** A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property, and has a right-of-way twenty (20) feet or less in width.
16. **Alteration.** Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another, shall be considered an alteration.
17. **Apartment House.** Same as dwelling, multiple family.
18. **Appeal.** A request for a review of the Board of Zoning Adjustment's interpretation of any provision of this Ordinance or a request for a variance.
19. **Approving Authority.** The City Council of Oshkosh, Nebraska or its designee.
20. **Attached.** Having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway; façade wall extension; or archway.
21. **Automobile Salvage Yard.** Same as junk yard.
22. **Base Flood.** The flood having one percent chance of being equaled or exceed in any given year.
23. **Base Zoning District.** A district established by this Ordinance which prescribes basic regulations governing land use and site development

standards. No more than one (1) Base Zoning District shall apply to any individually platted lot or parcel unless the lot or parcel is part of a Planned Unit Development.

24. **Basement.** That portion of a building having more than one-half of its height below finished grade. This portion shall serve as a substructure or foundation for the remainder of the building.
25. **Bed and Breakfast.** A house or portion thereof where short – term lodging rooms and meals are provided. The operator of the establishment shall live on the premises or in adjacent premises.
26. **Block.** An area of land within a subdivision that is entirely bounded by streets, by streets and the exterior boundaries of the subdivision, or by a combination of the above with a watercourse, lake, railroad, or other significant natural or man-made barrier, and which has been designated as such on a plat for the purposes of legal description of a property.
27. **Block Face.** The property abutting one (1) side of a street and lying between the two (2) nearest intersection streets, or between the one (1) nearest intersecting street and a major physical barrier, including, but not limited to, railroads, streams, lakes, or the corporate limits of Oshkosh.
28. **Board of Adjustment.** That Board which has been created by the Governing Body to hear and determine appeals and variances to the zoning regulations.
29. **Boarding or Rooming House.** A building containing a single dwelling unit and provisions for not more than five quests, where lodging is provided with or without meals for compensation.
30. **Bufferyard.** A landscaped area intended to separate and partially obstruct the view of two (2) adjacent land uses or properties from one another.
31. **Building.** An enclosed structure, anchored to a permanent foundation, and having a roof support by columns or walls, intended, designed, used, or suitable for use for the support, enclosure, shelter, or protection of persons, animals, or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. “Building” includes “structure.”
32. **Building Coverage.** The area of a site covered by buildings or roofed area, excluding allowed projecting eaves, balconies, and similar features.
33. **Building Envelope.** The net cubic, three (3) dimensional, space that remains for placing a structure on a site after building line, height, and bulk regulations are observed.
34. **Building, Height of.** The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to (a) the highest point of a flat roof, (b) the deck line of a mansard roof, or (c) the average height between the eaves and ridge for gable, hip, and gambrel roofs.

35. **Building Line.** A line formed by the face or exterior walls of the building which is used to establish the required yards for a building or structure.
36. **Building – Main.** A building in which is conducted the principal use of the lot or parcel upon which it is situated. Every dwelling in the residence district is a main building.
37. **Building Official.** The person or persons designated by the governing body to administer this subdivision ordinance whether such person or persons by entitled Building Official, Building Inspector, Administrative Official, or Zoning Administrator.
38. **Building Permit.** A document that must be issued by the City prior to erecting, constructing, enlarging, altering, moving, improving, removing, converting, or demolishing any building or structure on a platted lot or parcel.
39. **Building Site.** The land area, consisting of one or more lots or parcel of land under common ownership or control, considered as the unit of land occupied or to be occupied by a main building or buildings and accessory buildings, or by a principal use or uses accessory thereto, together with such parking and loading spaces, yards and open spaces as are required by these regulations.
40. **Business.** Activities that include the exchange or manufacture of goods or services on a site.
41. **Business Center.** A building containing more than one (1) commercial business, or any group of non-residential buildings within a common development, characterized by shared parking and access.
42. **Campground.** Areas used and designed to accommodate two or more transit camping parties, including tents or other camping outfits and travel trailers, but not including mobile home parks or permanent mobile homes.
43. **Carwash.** An area of land and/or a structure with machine-or-and operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.
44. **Certificate of Occupancy.** An official certificate issued by the City of Oshkosh, prior to occupancy of a completed building or structure, upon finding of conformance with the applicable building code and this Ordinance.
45. **Change of Use.** The replacement of an existing use type by a new use type.
46. **Child Care Center.** A facility which is or should be licensed by the Nebraska Department of Health and Human Services.
47. **Child Care Home.** A private home providing care (for children) for compensation which is or should be licensed by the Nebraska Department of Health and Human Services.

48. **Commercial/Utility Wind Energy Systems (Large).** Shall mean a wind energy system of equal to or greater than 100 kW in total generating capacity.
49. **Commercial Venture.** An activity undertaken as a primary means of income or which provides a substantial supplement to a primary income.
50. **Common Area.** An area held, designed, and designated for common or cooperative use within a development.
51. **Common Open Space.** That undivided land in a subdivision which may be jointly owned by all property owners of the subdivision, for the benefit of the owners of the individual building sites of said development.
52. **Communication Tower.** Any structure used to elevate a transmitter for radio, television, telephone, or any other types of communication.
53. **Comprehensive Development Plan.** A general plan for the improvement of the City as adopted by the City Council.
54. **Club or Lodge.** Building or facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.
55. **Confined Livestock Feeding.** The process and area used for the enclosing of livestock whereby the feed provided is not grown within the confined area on which the livestock are located and involves more than 30 head at a given time.
56. **Culvert.** A transverse drain that channels water under a bridge, street, or driveway.
57. **Curb.** A vertical or sloping edge of a roadway, intended to define the edge of the cartway or street and to channel or control drainage.
58. **Day Care Center.** A facility in the business of providing care as defined by Nebraska Department of Social Services as a group day care center.
59. **Day Care Home.** A private residence as defined by Nebraska Department of Social Services as a Family Day Care Home.
60. **Development.** Any man-made change to improved or improved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
61. **Development Agreement.** An agreement between the City and Subdivider whereby the Subdivider guarantees to complete all improvements and terms for payment of costs for same.
62. **District or Zone.** A section or sections of the Zoning Area for which uniform regulations governing the use of land, the height, use, area, size, and intensity of use of buildings, land, and open spaces are herein established.
63. **Dog.** Any canine species over six (6) months of age.
64. **Drive-in Service.** A type of retail sales which encourages, recognizes, or permits patrons or customers to call for service by the flashing of lights or by the parking of motor vehicles at a particular place, intended to result in a

cash sale and delivery outside of the places of business to such patrons or customers.

65. **Duplex.** Any building containing exactly two dwelling units which are side by side with a common wall and roof, situated on a single lot.
66. **Dwelling.** A building or portion thereof which shall not include a trailer or other mobile living unit or hotel, designed and used exclusively for residential purposes.
67. **Dwelling for the Elderly and/or Handicapped.** A two-family or Multiple-family dwelling having accommodations for and occupied exclusively by elderly or handicapped residents and necessary maintenance personnel. Elderly residents are those people who are at least sixty-two (62) years of age. Handicapped Persons are those people having an impairment which is expected to be of long, continuous and indefinite duration and is a substantial limitation to their ability to live independently.
68. **Dwelling, Multiple-family.** A building or portion thereof designed with accommodations for or occupied by three (3) or more families living independently of each other who may or may not have joint services or facilities or both. The term includes dormitories and lodging and boarding houses but does not include hotels, motels, and tourist courts.
69. **Dwelling, Single-Family Attached or Townhouse.** A portion of a dwelling having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each such dwelling may be sold independently of the other portions.
70. **Dwelling Unit.** A group of rooms or a single room with kitchen facilities occupied or intended for occupancy as separate living quarters by a family or other group of persons living together, or by a person living alone.
71. **Earth Sheltered Residence.** A residence designed as a complete structure below or partially below ground level, which was not intended to serve as a substructure or foundation for a building.
72. **Easement.** The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.
73. **Engineer.** One, licensed by the State of Nebraska, designated by the Oshkosh City Council to act for the City.
74. **Family.** One person or more than one person related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four unrelated persons living together as a single housekeeping unit; plus in either case, usual domestic servants, and/or resident staff. A family shall under no circumstances be construed as a boarding house, fraternity or sorority house, club, lodging house, hotel or motel.
75. **Farm.** The use of a tract of land of twenty (20) acres or more for the growing of crops, pasture, nursery, or the raising of poultry and livestock, including the structures necessary for carrying out farming operations and

the residence or residences of those owning or operation the premises, or persons employed thereon.

76. **Fascia.** A parapet-type wall used as part of the façade of a flat-roofed building and projecting no more than six (6) feet from the immediately adjacent building face. Such wall shall enclose at least three (3) sides of the projecting flat roof and return to the parapet wall or the building.
77. **Feed Lot.** Same as confined livestock feeding.
78. **Fence.** Any vertical structure, other than a building or plant material which is for the purpose of obstructing visual observation, or for the purpose of obstructing pedestrian, automotive or animal movement, or for the purpose of beautification, and which is attached to the ground or to a building, but excluding retaining walls.
 - a. **Open Fence:** A fence where the design contains openings that constitute not less than fifty percent (50%) of the surface area of the fence. The surface area is the product of a length of fence measured from the inside edge of one support post or column to the inside edge of the next adjacent support post or column; times the height of the same section of fence.
 - b. **Closed Fence:** A fence where the design of the fence has more than fifty (50%) percent of the surface area closed.
79. **Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, (2) the usual and rapid accumulation of runoff of surface waters from any source.
80. **Floodplain.** Floodplain or flood-prone area means any land area Susceptible to being inundated by water from any source.
81. **Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point.
82. **Floodway Fringe.** All that land in a floodplain not lying within a delineated floodway. Land within a floodway fringe is subject to an inundation by relatively low velocity flows and shallow water depths.
83. **Flood Insurance Rate Map (FIRM).** An official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.
84. **Floodplain.** Any land area susceptible to being inundated by water from any source (see definition of “flooding”).
85. **Floodway or Regulatory Floodway.** The channel of 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.
86. **Freeboard.** A factor of safety usually expressed in feet above a flood level for purposes of flood plain 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.

87. **Floor Area, Gross.** The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, elevator shafts; stairwells at each story; floor space used for mechanical equipment with structural headroom of six feet, six inches or more; as measured from the exterior faces of the walls. It does not include cellars unclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this by law.
88. **Foundation.** The supporting substructure of a building or other structure, including but not limited to, basements and slabs designed to provide a structural system for transferring loads from a structure to the earth.
89. **Foundation, Permanent.** (1) A full, poured concrete or masonry foundation; (2) a poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor; (3) a floating slab for which the municipality may require an engineer's certification; (4) any foundation which, pursuant to the building code of the municipality, is permitted for other types of single-family dwellings.
90. **Frontage.** The length of the property abutting on one (1) side of a street measured along the dividing line between the property and the street.
91. **Funeral Home.** A building or part hereof used for human funeral Services, such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b.) the performance of autopsies and other surgical procedures; c.) the storage of caskets, funeral urns, and other related funeral supplies; and d.) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.
92. **Garage, Private.** A building for the private use of the owner or Occupant of a principal building situated on the same lot or attached to the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.
93. **Garage, Public.** A building designed and used for the storage of Personal property or automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.
94. **Garage, Repair.** (See also Service Station.) A building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work.
95. **Governing Body.** The City Council of the City of Oshkosh, Nebraska.

96. **Grade.** As the average finished ground level of the land around the building within the area between the building and the property line is more than five feet from the building, between the building and a line five feet from the building.
97. **Green Area.** (See Common Open Space.)
98. **Greenhouse.** A structure devoted to the cultivation and/or the protection of plants. Usually having a roof and/or sides of translucent material.
99. **Group Home.** Means a facility which houses more than five (5) but less than sixteen (16) persons. Those facilities may offer, in addition to lodging, accommodations, meals, resident support services, counseling, guidance and varying levels of medical care. Such facility shall be licensed or approved by the State of Nebraska or other appropriate agency.
100. **Group Home for the Handicapped.** (See also Family.) A dwelling shared by four or more handicapped persons, including resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the resident to live independently as possible in order to reach their maximum potential. As used herein, the term “handicapped” shall mean having 1) a physical or mental impairment that substantially limits one or more of such person’s major life activities so that such person is incapable of living independently; 2) a record of having such an impairment; or 3) being regarded as having such an impairment. However, “handicapped” shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term “group home for the handicapped” shall not include alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities for serving as an alternative to incarceration.
101. **Hazardous Substances.** Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.
102. **Health/Recreation Facility.** An indoor facility including uses such as game courts, exercise equipment, locker rooms, Jacuzzi, and/or sauna and pro shop.
103. **Height.** The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs, measured from the curb level of the building from the grade in all other cases. For all instances in this regulation the maximum height guidelines shall use the peak as the highest measuring point.

104. **Helistop – Limited Use.** Any landing area used for the taking off or landing of private helicopters for the purpose of picking up and discharging of passengers or cargo. This facility is not open to use by any helicopter without prior permission having been obtained.
105. **Highest Adjacent Ground.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
106. **Highway, State and Federal.** Highways which are so designated by the State of Nebraska.
107. **Highway, County.** Highways so designated by the County Board.
108. **Hike/Bike/Pedestrian Trail.** A recreational trail prohibiting all non-emergency or public maintenance motorized vehicles.
109. **Historic District.** An area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.
110. **Historic Structure.** any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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 has 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.
111. **Hobby.** An activity undertaken as a means of providing relaxation, enjoyment or a learning experience and where any income is an incidental part of the activity.
112. **Home Occupation.** An occupation carried on in a dwelling unit by the resident thereof; provided that the use is incidental and secondary to a property's primary residential use. A home occupation use shall not change the residential character of the property or the neighborhood and shall meet all applicable legal requirements.
113. **Hospital.** An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured person, and licenses by state law to provide facilities and services in surgery, obstetrics, and general medical practice.
114. **Hotel or Motel.** A building or portion thereof, or a group of buildings, used as a transient abiding place which may or may not serve meals and whether

such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court, tourist cabin, tourist court, or other similar designation.

115. **Impervious Coverage Area.** The total horizontal area, expressed as a percent of the entire site area, of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water. The surface water area of pools is excluded from this definition.
116. **Impervious Surface.** Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks, and paved recreation areas.
117. **Improvement.** Street pavement or resurfacing, curbs, gutter, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping, and other related matters normally associated with the development of raw land into building sites.
118. **Inoperable Motor Vehicle.** A motor vehicle that is wrecked, dismantled, or unable to move under its own power or is impounded by a governmental agency or is not currently licensed.
119. **Junk.** Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof.
120. **Junk Yard.** Any area where waste, junk, discarded or salvaged materials are brought, sold, stored, exchanged, baled or packed, disassembled or handled, including dismantling or “wrecking” of automobiles or other vehicles or machinery, house wrecking, and structural steel materials and equipment.
121. **Kennel.** An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.
122. **Landfill.** (See Solid Waste Landfill).
123. **Landscaped Area.** The area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.
 - a. **Perimeter Landscaped Area:** Any required landscaped area that adjoins the exterior boundary of a lot, site or common development.
 - b. **Interior Landscaped Area:** Any landscaped area within a site exclusive of required perimeter landscaping.
124. **Laundry, Self Service.** A business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises.
125. **Lean-to.** Building having three (3) sides and a roof using the wall of another building for the fourth (4th) side used for storage or a workshop.

126. **Livestock.** All cattle, bison, horses, mules, burros, sheep, goats, swine, poultry, llamas, ostriches, and elk shall be considered livestock. Additionally, any other animal or fowl which are being produced primarily for use as food or food products for human consumption shall be considered livestock.
127. **Lot.** A parcel of land shown as a unit on a recorded subdivision plat.
128. **Lot Area.** The total horizontal area within the lot lines of a lot.
129. **Lot, Corner.** A lot abutting upon two (2) or more streets at their intersection.
130. **Lot Depth.** The average horizontal distance between the front and rear lot lines.
131. **Lot, Double Frontage.** An internal lot having a frontage on two streets.
132. **Lot, Flag.** Lots or parcels that the City has approved with less frontage on a public street than is normally required. The panhandle is an access corridor to lots or parcels located behind lots or parcels with normally required street frontage.
133. **Lot, Interior.** A lot other than a corner lot which has frontage on one (1) street only.
134. **Lot Line, Front.** (See also Yard, Front.) On an interior lot, the lot line abutting a street; or, on a corner lot, the shorter lot line abutting a street; or, on a through lot, the lot line abutting the street providing the primary access to the lot; or, on a flag lot, the interior lot line most parallel to an nearest the street from which access is obtained.
135. **Lot, Rear.** The rear of a lot shall be that side opposite the front of the lot.
136. **Lot of Record.** A lot whose existence, location, and dimensions have been legally recorded or registered in a deed or on a plat.
137. **Lot, Substandard.** A lot or parcel of land that has less than the required minimum area or width as established by the zone in which it is located and provided that such lot or parcel was of record as a legally created lot on the effective date of the ordinance codified in this title.
138. **Lot, Through.** A lot having its front and rear yards each abutting on a street.
139. **Lot, Width.** The mean horizontal distance between the side lot lines, measured at right angles to the lot depth. Where side lot lines are not parallel the minimum width of a lot shall be measured at the front yard setback line, but in no case shall the front lot line be less than 35 feet in width.
140. **Lowest Flood.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
141. **Manufactured Home.** A factory built single-family dwelling structure which is to be used as a place for human habitation, which bears a label certifying

that it was manufactured or constructed in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing a seal in accordance with the Nebraska Uniform Standards for Modular Housing Units Act, and which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, does not have permanently attached to its body or frame any wheels or axels, and which complies with the following architectural and aesthetic standards listed below. For the purpose of any of these regulations, manufactured home shall be considered the same as a single-family detached dwelling.

1. Dwelling units built in compliance with the above may be placed in any zoning district where single-family dwelling units are permitted when the additional requirements outlined in Chapter 3 of this Ordinance are met.
2. Manufactured or mobile homes which do not meet all of the standards listed in Chapter 3 of this Ordinance, may be placed in a mobile home park or as permitted by Code, provided the structure is transportable in one (1) or more sections which in the traveling mode are eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, are three hundred twenty (320) or more square feet and which are built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein.
142. **Maximum Building Coverage.** This measures the percentage of a site that may be covered by the footprint of buildings. Thus, a twenty thousand (20,000) square foot building on a forty thousand (40,000) square foot site has a building coverage of fifty percent (50%). This is a method of regulating the scale of buildings in an area.
143. **Maximum Impervious Coverage.** This measures the percentage of a site that may be covered by buildings and other surfaces and development features which prevent the penetration of water into the ground (such as driveways, porches, parking lots, and other features). Limits on impervious coverage help control the velocity and quantity of storm water runoff and provide for groundwater recharge.
144. **Medical Office.** Use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar medical practitioners licensed for practice in the State of Nebraska.
145. **Mini-Warehouse.** (See Self Service Storage Facility).
146. **Minor Subdivision.** (See Administrative Subdivision).

147. **Mobile Home.** A building type designed to be transportable in one (1) or more sections, constructed on a permanent chassis or undercarriage, and designed to be used as a dwelling unit or other use with or without a permanent foundation when connected to the required utilities, but not bearing a seal attesting to the approval and issuance of the Nebraska Department of Health or conformance to the manufactured home procedural and enforcement regulations, as adopted by the U.S. Department of Housing and Urban Development; or not otherwise satisfying the definition of Manufactured Home Dwellings.
148. **Mobile Home, Double-Wide.** A mobile home that consists of two or more sections that are transported separately and assembled at the site into one structure of a width of not less than twenty feet.
149. **Mobile Home Park.** A unified development under single ownership, developed, subdivided, planned, and improved for the placement of mobile home units for non-transient use. Mobile Home Parks may include common areas and facilities for management, recreation, laundry, utility services, storage, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purposes of display, inspection, sale, or storage.
150. **Mobile Home, Single-Wide.** A mobile home that consists of one section which the main body, exclusive of expansions or extensions, is sixteen feet or less in width.
151. **Mobile Home Space.** A plot of ground within a mobile home park which can accommodate one mobile home and which provides the necessary utility services for water, sewerage, and electricity.
152. **Mobile Home Subdivision.** A subdivision where individual lots are sold for the placement of manufactured or mobile homes where the lot and structure are intended, to be owned by the same party.
153. **Modular Home.** “Modular housing unit” shall mean any dwelling whose construction consists entirely of, or the major portions of its construction consists of, a unit or units not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities. Modular housing units shall be taxed as real estate. The term “modular housing unit” shall not include a manufactured home.
154. **Monuments.** Permanent concrete or iron markers used to establish definitely all lines of the plat of a subdivision, including all lot corners, boundary line corners and points of change in street alignment.
155. **Non-Commercial Wind Energy Systems (Small).** Shall mean a wind energy system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce onsite consumption of utility power.

156. **Nonconforming Building/Structure.** Any building or structure that does not meet the limitations on building size and location on a lot, for the district in which such building is located, for the use to which such building is being located.
157. **Nonconforming Lot.** A use or activity which lawfully existed prior to the adoption, revision, or amendment of this ordinance, but which fails by reason of such adoption revision, or amendment to conform to the use district in which it is located.
158. **Nonconforming Use.** A lawful use of land or building that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.
159. **Nursery.** An area where plants, such as trees and shrubs, are grown for transplanting, for use as stock for budding and grafting or for sale.
160. **Nursing Home – Convalescent Home.** An institution or agency licensed by the State for the reception, board, care, or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.
161. **Open Space.** An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes.
162. **Out Lot.** Property shown on a subdivision plat outside of the boundaries of the land which is developed and which is to be excluded from the development of the subdivision.
163. **Overlay District.** A district which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district does not change.
164. **Park.** Any public or private land available for recreation, educational, cultural, or aesthetic use.
165. **Parking Area, Public or Customer.** An area other than private parking area, street or alley, used for the parking of automobiles and available for public or semi-public use.
166. **Parking Space, Off-Street.** Off-street parking shall mean an area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress. A surfaced area of not less than two hundred (200) square feet on private or public property, either within or outside a building, suitable in size and location to store one standard automobile.
167. **Pedestrian Ways.** A tract of land dedicated to public use, which cuts across a block to facilitate pedestrian access to adjoining streets and properties.
168. **Pervious Coverage.** Area maintained in its natural condition, or covered by material that permits infiltration or percolation of water into the ground. Any material that permits absorption of water into the ground.
169. **Planned Development.** Special development of certain tracts of land, planned and designed as a unit for one (1) or more land uses under the regulations and procedures contained in this Article.

- 170. **Planning Area.** The statutory zoning jurisdiction of the City of Oshkosh.
- 171. **Planning Commission.** The appointed planning body designated by the Oshkosh City Council.
- 172. **Plat.** Map, drawing, or chart upon which the developer's plan of subdivision (Preliminary) is presented to the City Council for approval and, after such approval, to the appropriate County Clerk for recording.
- 173. **Plot.** A parcel of ground.
- 174. **Principal Building.** Also called principal structure. The building in which the primary use of the lot is intended.
- 175. **Principal Use.** The primary use and chief purpose of a lot or structure.
- 176. **Public Works Plan.** An improvement analysis, conducted and prepared by City Engineer, delineating what necessary sewer, water, drainage, street, storm water, floodplain, well head and easement improvements will be needed for all phases of a subdivision.
- 177. **Public Way.** An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk, or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.
- 178. **Recreational Area, Commercial.** A non-governmental recreational area open to the public with an admission fee, intended to be a commercial profit making activity.
- 179. **Recreational Area, Private.** A non-governmental recreational area open only to members of a non-profit organization or association.
- 180. **Recreational Vehicle (RV).** A vehicle built on a single chassis, containing 400 square feet or less when measured at the largest horizontal projections and designed to be self-propelled or towed by another vehicle. A recreational vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as travel trailers, motor homes, boats, house boats, and campers.
- 181. **Recreational Vehicle (RV) Park.** Any lot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles for accommodating temporarily occupied living quarters for recreation or vacation purposes.
- 182. **Recycling Center.** A facility that is not a junk yard and in which recoverable resources are collected, stored, flattened, crushed, or bundled, essentially by hand within a completely enclosed building. (Such as newspaper, glassware, metal, cans, etc.)
- 183. **Residence.** A building used, designed, or intended to be used as a home or dwelling place, for one or more families.
- 184. **Restaurant.** An establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tea rooms, and outdoor cafes.

185. **Restaurant, Drive-in.** A retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles.
186. **Restaurant, Fast-food.** An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, or grilled quickly, or heated in a device such as a microwave oven orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers.
187. **Right - of - Way.** A strip of land, taken or dedicated for use as a public way which is occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.
188. **Road.** Same as street.
189. **Road, Public.** (See also Right-of-way and Street.) All public property reserved or dedicated for street traffic.
190. **Road, Private.** (See also Right-of-way and Street) A way open to vehicular ingress and egress established as a separate tract for the benefit of certain, adjacent properties. This definition shall not apply to driveways.
191. **Salvage or Junk Yard.** A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.
192. **School.** A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high school.
193. **Screening.** The method by which a view of one site from another elements or form adjacent or contiguous development. Screening may include one or a combination of the following materials of sufficient mass to be opaque or that shall become opaque after 12 months and which shall be maintained in an opaque condition; walls, berms, or plantings.
194. **Self-Service Storage Facility.** A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.
195. **Service Station.** (See also Garage, Repair) Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy

automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted.

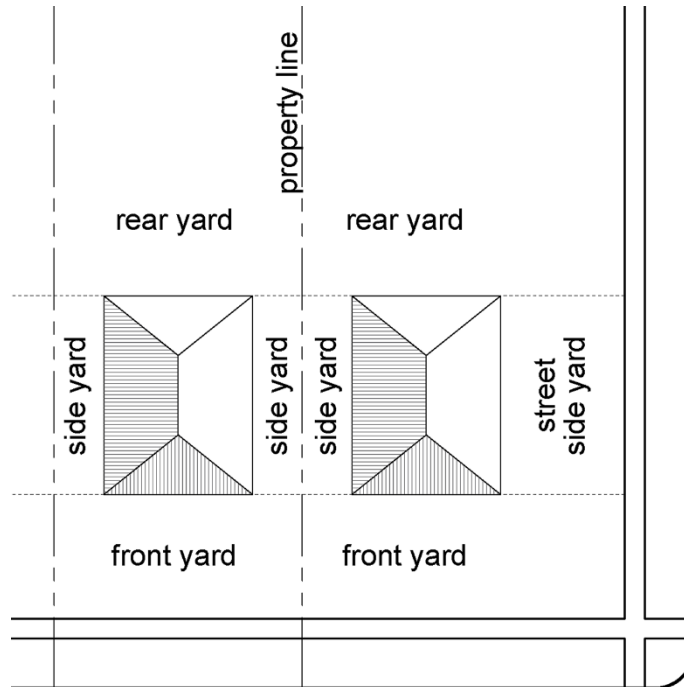
196. **Setback.** The required minimum horizontal distance between the building line and the related front, side, or rear property line.
197. **Sewers, On-Site.** A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.
198. **Shed.** Free standing building not larger than ten feet by twelve feet (10' by 12') used for storage or workshop.
199. **Sidewalk.** A walkway consisting of a paved or cemented area for pedestrians; usually beside a street or roadway but within the right-of-way.
200. **Sight Triangle.** An area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2-1/2 feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the center line of the streets, 80 feet in each direction along the center line of the streets. At the intersection of major or arterial streets, the 80-foot distance shall be increased to 120 feet for each arterial leg of the intersection.
201. **Sign.** Any device containing elements or symbols, organized or related, which is designed to inform or to attract the attention of persons not on the premises on which the sign is located, provided, however, that mailbox numbers or names, government flags or insignia, legal notices, governmental identification, information or directional signs shall not be included in the application of these regulations.
202. **Sign, On-Site.** A sign relating in its subject matter to the premises on which it is located, or to the products, accommodations, services, or activities on the premises, or to the construction, sale, lease or rental of the premises. On-site signs do not include outdoor advertising signs or billboards.
203. **Sign, Off-Site.** A sign other than an on-site sign and includes an outdoor advertising sign, or device and billboard not relating in its subject matter to the use or activity of the premises on which the sign is located.
204. **Single Family, Attached.** A dwelling having a common wall with another dwelling. The common wall is on a lot line dividing two (2) residential lots. Each dwelling may be the property of two (2) different owners.
205. **Site Plan.** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.
206. **Solid Waste Landfill.** A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles, or parts thereof, or other

waste, and which is in conformance with the requirements of the Nebraska Department of Environmental Quality and Nebraska Department of Health and Human Service System.

207. **Solid Waste Transfer Station.** A collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of the Nebraska Department of Environmental Quality and Nebraska Department of Health and Human Service System.
208. **Special Flood Hazard Area.** The land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.
209. **Storage Building.** A building or structure used, or intended to be used, for the sole purpose of storing goods and materials.
210. **Story.** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls of such story, or it is used for business or dwelling purposes.
211. **Street.** That area of land plated and dedicated for public use, or lawfully used, as a public thoroughfare for vehicular travel; excluding from this definition access ways commonly designated as alleys.
212. **Street, Center Line.** A line midway between street lines.
213. **Street Line.** A dividing line between a lot, tract, or parcel of land and the contiguous street. The right-of-way line of a street.
214. **Structure.** Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.
215. **Structural Alteration.** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders; any substantial change in the roof or in the exterior walls, excepting from this definition such alterations as may be required for the safety of the building.
216. **Subdivider.** The owners, developers or agents of persons or corporations affecting subdivision.
217. **Subdivision.** Subdivision shall mean the division of a lot, tract, or parcel of land into two (2) or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of ownership or building development. The term includes re-subdivision, and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.
218. **Surveyor.** Any person registered in Nebraska to practice surveying.
219. **Temporary Use.** A prospective use, intended for limited duration to be located in a zoning district not permitting such use, and not continuing a nonconforming use or building.

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

- 226. **Yard, Front.** A yard extending across the full width of the lot, the depth of which is the least distance between a front lot line and the front setback line.
- 227. **Yard, Rear.** A yard extending across the full width of the lot, of which is the least distance between the rear lot line and the rear setback line.
- 228. **Yard, Required.** The required minimum open space between the property line and the yard line. The required yard shall contain no building or structure other than the projection of the usual steps, or open porches, or as otherwise provided in these regulations.
- 229. **Yard, Side.** A yard extending from the front yard, or front lot line where no front yard is required, to the rear yard.
- 230. **Yard, Street Side.** The area extending between the front yard and the rear yard and situated between the side street lot line and the face of the principal building which is parallel to, or most nearly parallel to, the side street lot line.



- 231. **Zoning.** A police power measure in which the community is divided into districts or zones within which permitted and conditional uses are established as are regulations governing lot size, building bulk, placement, and other development standards.
- 232. **Zoning Administrator.** An appointed official whose primary responsibility is to enforce Zoning Regulations.
- 233. **Zoning District.** An area delineated on a Zoning Map for which uniform use regulations are specified.

234. **Zoning Map.** A map or maps officially enacted by the governing body as part of this ordinance showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the City Clerk as an official record of the City.
235. **Zero Lot Line.** The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

SECTION 18

STATUTORY AUTHORIZATION – FLOODPLAIN REGULATIONS

18.1 **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 and general welfare. The Legislature in Section NE RRS 17-505, and 31-1001 to 31-1023, 1943 has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the flood-prone area. Therefore, the City of Oshkosh, Nebraska, ordains as follows:

18.2 **FINDING OF FACTS**

1. **Flood Losses Resulting From Periodic Inundation.** The flood hazard areas of the City of Oshkosh, Nebraska is subject to inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.
2. **General Causes of These Flood Losses.** These flood losses are caused by (1) The cumulative effect of obstruction in floodplains causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damages.
3. **Methods Used to Analyze Flood Hazards.** This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.
 - a. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this ordinance. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials as amended, and any future revisions thereto.
 - b. Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and over bank areas to convey the base flood.
 - c. Computation of the floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

- d. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.
- e. Delineation of floodway fringe, i.e., that area outside the flood way encroachment lines, but which still is subject to inundation by the base flood.

18.3 **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 this Chapter by applying the provisions of this ordinance to:

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

GENERAL PROVISIONS

18.4 **LANDS TO WHICH ORDINANCE APPLIES**

This ordinance shall apply to all lands within the jurisdiction of the City of Oshkosh, NE identified on the Flood Insurance Rate Map (FIRM), and any revisions thereto, as numbered and unnumbered A Zones (including AE Zones) and within the Zoning Districts FW and FF established in this ordinance. In all areas covered by this ordinance no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the City of Oshkosh, Council or its duly designated representative under such safeguards and restriction as the City of Oshkosh, Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the Community and where specifically noted in these Regulations.

18.5 **THE ENFORCEMENT OFFICER**

The Flood Plain Administrator of the Community is hereby designated as the Community's duly designated Enforcement Officer under this Ordinance.

18.6 **RULES OF INTERPRETATION OF DISTRICT BOUNDARIES**

The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such

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

18.7 **COMPLIANCE**

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

18.8 **ABROGATION AND GREATER RESTRICTIONS**

It is not intended by this ordinance to repeal, abrogate or impair any existent easements, covenants, or deeds 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.

18.9 **INTERPRETATION**

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

18.10 **WARNING AND DISCLAIMER OF LIABILITY**

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

18.11 **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.

18.12 APPEAL

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

DEVELOPMENT PERMIT

18.13 PERMIT REQUIRED

No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in these Regulations. This will also require permits for all proposed construction or other development including placement of manufactured home, except as provided in these Regulations.

18.14 ADMINISTRATION

1. The Flood Plain Administrator is hereby appointed to administer and implement the provisions of this ordinance.
2. Duties of the Flood Plain Administrator shall include, but not be limited to:
 - a. Review all development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
 - b. Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, State or Local governmental agencies from which prior approval is required.
 - c. 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;
 - d. Notify adjacent communities and the 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.
 - e. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 - f. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
 - g. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which the new or substantially improved non-residential structures have been flood proofed.
 - h. When flood proofing is utilized for a non-residential structure the Flood Plain Administrator shall be presented certification from a registered professional engineer or architect to certify that the design and methods of construction meet requirements at [(c) (3) (ii)] [60.3(c) (4)]

18.15 **APPLICATION FOR PERMIT**

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

1. Identify and describe the work to be covered by the floodplain development permit.
2. Describe the land on which the proposed work is to be done by lot, block tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
3. Indicate the use or occupancy for which the proposed development is intended.
4. Be accompanied by plans and specifications for proposed construction.
5. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
6. Give such other information as reasonably may be required by the Floodplain Administrator.

18.16 **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 floodway fringe overlay district (FF) as identified in the Flood Insurance Study [and accompanying map(s)]. The governing body of the City of Oshkosh, hereby designates the current Flood Insurance Rate Map and any revisions thereto, as the official map to be used in determining those areas of special flood hazard. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

18.17 **STANDARDS FOR THE FLOODPLAIN DEVELOPMENT**

1. No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE zones) unless the conditions of this Section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of these Regulations. 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. In A Zones, in the absence of FIA BFE data and Floodway data, consider other available data as basis for elevating residential structures to or above base flood level, and for flood proofing or elevating nonresidential structures to or above base flood level. [60.3(b) (4)]
3. Until a floodway has been designated, no development or substantial improvements may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial

improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown on the Flood Insurance Study.

4. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
 - a. Design or anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.
 - b. New or replacement water supply systems and/or sanitary sewage Systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into floodwaters, and on-site waste disposal systems are located so as to avoid impairment or contamination.
 - c. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - d. All utility and sanitary facilities be elevated or flood proofed up to the regulatory flood protection elevation.
5. Storage and Material and Equipment
 - 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. 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.
6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems area located, elevated and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards, and (d) proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the base flood elevation.
7. Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-flood proofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from

the floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

8. Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than four hundred (400) square feet, may be constructed at-grade and wet-flood proofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this ordinance; and a floodplain development permit has been issued.
9. Appurtenant structures used exclusively for storage of motor vehicles, and storage of other items readily removable in the event of a flood warning may have their lowest floor below one foot above the base flood elevation provided the structure is capable of withstanding hydrostatic and hydrodynamic forces caused by the base flood and provided that no utilities are installed in the structure except elevated or flood proofed electrical fixtures. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

FLOODWAY FRINGE OVERLAY DISTRICT

18.18 PERMITTED USES

Any use permitted in the base zoning district shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of these regulations are met.

18.19 STANDARDS FOR THE FLOODWAY FRINGE OVERLAY DISTRICT

1. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement elevated to or above **one (1) foot** above the base flood elevation.
2. Require new construction or substantial improvements of non-residential structures to 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, to be flood-proofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth this Chapter.
3. Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a Registered professional engineer or architect or meet or exceed the following minimum criteria; A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Manufactured homes:
 - a. 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 frame 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 manufacture home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
 - ii. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring four additional ties per side;
 - iii. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and
 - iv. Any additions to the manufactured home be similarly anchored.
 - b. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM 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 has incurred "substantial damage as the result of flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above **one (1) foot** above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this Chapter.
 - 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 on the community's FIRM that are not subject to the provisions of this Chapter 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 thirty-six (36) inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this Chapter.
5. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

FLOODWAY OVERLAY DISTRICT

18.20 PERMITTED USES

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance. The following are recommended uses for the Floodway District;

1. Agricultural uses such as general farming, pasture, nurseries, forestry.
2. Residential uses such as lawns, gardens, parking and play areas.
3. Non-residential areas such as loading areas, parking, airport landing strips.
4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

18.21 STANDARDS FOR THE FLOODWAY OVERLAY DISTRICT

New structures for human habitation are prohibited. 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 occurrence of the base flood discharge. These uses are subject to the standards of this Chapter. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State or other sources or this ordinance, in meeting the standards of this section.

18.22 VARIANCE PROCEDURES

1. The Board of Adjustments as established by the City of Oshkosh shall hear and decide appeals and requests for variances from the requirements of this ordinance.

2. The Board of Adjustments shall hear and decide appeals when it is alleged that there is an error in any requirements, decision, or determination made by the Flood Plain Administrator in the enforcement or administration of this ordinance.
3. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Section 19-912, R. R. S. 1943.
4. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations, 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 flood plain 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;
 - i. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

18.23 **CONDITIONS FOR VARIANCE**

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items listed below have been fully considered. As the lot size increases beyond the one-half acre, the technical jurisdiction required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of historic structures upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is

the minimum necessary to preserve the historic character and design of the structure.

3. Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. The Applicant shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below the base flood level will result in increased premiums rates for flood insurance up to amounts as high as \$25.00 for \$100 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

18.24 **CONDITIONS FOR APPROVING VARIANCES FOR AGRICULTURAL STRUCTURES**

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building’s unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-flood proofed.

1. All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.
2. Use of varied structures must be limited to agricultural purposes in zone A only as identified on the community’s Flood Insurance Rate Map (FIRM).
3. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with this ordinance.

4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
5. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or flood proofed so that they are contained within a watertight, flood proofed enclosure that is capable of resisting damage during flood conditions in accordance with this ordinance.
6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with this ordinance.
7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of this ordinance. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
8. Major equipment, machinery, or other contents must be protected from any flood damage.
9. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.
10. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
11. Wet-flood proofing construction techniques must be reviewed and approved by the community and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

18.25 **CONDITIONS FOR APPROVING VARIANCES FOR ACCESSORY STRUCTURES**

Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in this Chapter.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-flood proofed.

1. Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).

2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with this ordinance.
3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or flood proofed so that they are contained within a watertight, flood proofed enclosure that is capable of resisting damage during flood conditions in accordance with this ordinance.
5. The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with this ordinance.
6. The accessory structures must comply with the floodplain management floodway encroachment provisions of this ordinance. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
7. Equipment, machinery, or other contents must be protected from any flood damage.
8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
9. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
10. Wet-flood proofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

18.26 CONDITIONS FOR APPROVING VARIANCES FOR APPURTENANT STRUCTURES

Any variance granted for an appurtenant structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in this ordinance.

1. Use of the appurtenant structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).

2. For any new or substantially damaged appurtenant structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with this ordinance.
3. The appurtenant structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or flood proofed so that they are contained within a watertight, flood proofed enclosure that is capable of resisting damage during flood conditions in accordance with this ordinance.
5. The appurtenant structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with this ordinance.
6. The appurtenant structures must comply with the floodplain management floodway encroachment provisions of this ordinance. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
7. Equipment, machinery, or other contents must be protected from any flood damage.
8. No disaster relief assistance under any program administered by any Federal Agency shall be paid for any repair or restoration costs of the appurtenant structures.
9. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
10. Wet-flood proofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

18.27 NON-CONFORMING USE

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance but, which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
 - a. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Floodplain Administrator in writing of instances of

nonconforming uses where utility service has been discontinued for a period of twelve (12) months.

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

18.28 **PENALTIES FOR VIOLATION**

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

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

18.29 **AMENDMENTS**

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

18.30 **PERMIT EXCEPTIONS**

Flood Plain Permits will not be required for planting a garden, landscaping and farming, putting up a mailbox, or erecting a flag pole. Flood Plain Permits will not be

required for routine maintenance such as painting, re-roofing, sidewalks or driveways except as otherwise required by State Statute or if the value of the maintenance or improvements exceed fifty (50) percent of the value of the building. However, no building permit for such activity shall be issued if such activity causes a new obstruction to flood plains or alters drainage.

SECTION 19

VIOLATIONS AND PENALTY

19.1 A violation of this ordinance or regulation therein is hereby declared to be a misdemeanor and, upon a conviction, shall be any sum not exceeding (\$500) five hundred dollars for any one offense, recoverable with costs together with judgment of imprisonment until the amount of said fine and costs shall be paid. Each day after notification is given by the City of Oshkosh which such illegal use of any building, structure or land continues shall be deemed a separate offense. In any 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 said sections or of any ordinance or other regulation made under authority conferred thereby, the City Council or the proper local authorities of the City, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

SECTION 20

VALIDITY & EFFECTIVE DATE

- 20.1** Should any part of this ordinance, for any reason, be held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. All regulations or parts of regulations passed and approved prior to the passage and approval of this ordinance and in conflict therewith are hereby repealed.
- 20.2** This ordinance shall be in full force and effect after its passage, approval and publication as provided by law.