

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
FEBRUARY 17, 2009 AGENDA

| Subject: | Type: | Submitted By: |
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| ZONING TEXT AMENDMENTS — DEFINITIONS | ◆ RESOLUTION ◆ ORDINANCE RECEIVE/FILE | ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR |

SYNOPSIS

A public hearing has been scheduled and an ordinance has been prepared for Council to consider amendments to Section 2.02 of the Zoning Ordinance regarding definitions.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approve.

BACKGROUND

A public hearing has been scheduled for Council to consider amendments to Section 2.02 of the Zoning Ordinance regarding definitions.

The proposed amendments to the definition section of the Zoning Ordinance have been made to eliminate words or phrases that do not appear elsewhere in the code; to add definitions to uses that are in other sections of the code; and to revise the content of definitions that need clarity, rewriting, and/or updating.

The American Planning Association (APA) was utilized to help determine the appropriate wording for some of the definitions. Attached is a red-lined copy of each page of the Zoning Ordinance with the proposed amendments.

The Planning Commission held public hearings on April 17, May 15, June 19, July 17, August 21, September 18, October 16, November 20, 2008, and on January 22, 2009 and recommended approval.

ARTICLE 2: DEFINITIONS

Section 2.01 Rules For the purpose of this ordinance the following rules shall apply:

- 2.02.01 Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.
- 2.02.02 The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, council, commission, trustee, receiver, agent or other representative.
- 2.02.03 The word "shall" is mandatory.
- 2.02.04 The words "use", "used", "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed" to be used or occupied.
- 2.02.05 The word "commission" shall refer to the Planning Commission of La Vista, Nebraska.
- 2.02.06 Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.

Section 2.02 Definitions.

- 2.02.01 **ABANDONMENT** shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.
- 2.02.02 **ABUT, ABUTTING** shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley.
- 2.02.03 **ACCESS OR ACCESS WAY** shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Regulation.
- 2.02.04 **ACCESSORY BUILDING** (see Building, accessory)
- 2.02.05 **ACCESSORY LIVING QUARTERS** shall mean living quarters within an accessory building located on the same premises with the main building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.
- 2.02.06 **ACCESSORY STRUCTURE** shall mean a detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.
- 2.02.07 **ACCESSORY USE** shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.
- 2.02.08 **ACREAGE** shall mean any tract or parcel of land which does not qualify as a farm or development.
- 2.02.09 **ADJACENT** shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent".

2.02.10 **ADULT BOOKSTORE** shall mean any premises from which minors are excluded and in which the retail sale of books, magazines, newspapers, movie films, devices, slides, or other photographic or written reproductions is conducted as a principal use of the premises, if such services are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

2.02.11 **ADULT COMPANIONSHIP ESTABLISHMENT** shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

2.02.12 **ADULT ENTERTAINMENT ESTABLISHMENT** shall mean any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but without limitation, adult bookstores, adult motion picture theaters, *adult* saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, *adult internet industries, and adult massage parlor / health club. and adult body painting studies.*

2.02.13 **ADULT HOTEL OR MOTEL** shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

2.02.14 **ADULT INTERNET INDUSTRIES** shall mean any business within an enclosed building or outdoors that is producing materials for distribution on the Internet of an adult nature, including live video streaming, tape delayed video broadcasts, live simulcasting, still photographs, audio broadcasts, animated video or hard copy. Said uses are intended for viewing by other parties while on-line and for a specified charge. (*Ordinance No. 891, 2-04-03*)

2.02.15 **ADULT MASSAGE PARLOR, HEALTH CLUB** shall mean a massage parlor or health club, which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

2.02.16 **ADULT MINI-MOTION PICTURE THEATER** shall mean a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

2.02.17 **ADULT MOTION PICTURE ARCADE** shall mean any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

2.02.18 **ADULT MOTION PICTURE THEATERS** shall mean a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

2.02.19 **ADULT NOVELTY BUSINESS** shall mean a business which has as a principal activity of the sale of devices which simulate human genitals or devices which are designed for sexual stimulation.

2.02.20 **ADULT SAUNA** shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

2.02.21 **ADVERTISING STRUCTURE** shall mean any notice or advertisement, pictorial or otherwise, and all such structures used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such Advertising Structure.

2.02.22 **AESTHETIC ZONING** shall mean zoning to accomplish a standard of exterior architectural appeal and/or neighborhood harmony.

2.02.23 **AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES** shall mean any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.

2.02.24 **AGRICULTURE** shall mean the use of land for agricultural purposes, of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any non-agricultural commercial or industrial development.

2.02.25 **AIRPORT** shall mean 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.

2.02.26 **AIRPORT HAZARD ZONE** consists of Operation Zones, Approach Zones, Turning Zones and Transition Zones. The outer boundary of the Hazard Zone is composed of a series of connected tangents and simple curves that also constitute the outer boundaries of the Approach and Turning Zones.

2.02.27 **ALLEY** shall mean a minor public service street or public thoroughfare 20 feet or less in width, through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.

2.02.28 **ALTERATION** shall mean any change, addition or modification in construction or occupancy of an existing structure.

2.02.29 **ALTERATION, STRUCTURAL** (see Structural alteration)

2.02.30 **AMENDMENT** shall mean a change in the wording, context, or substance of this Regulation, an addition or deletion or a change in the district boundaries or classifications upon the zoning map.

2.02.31 **AMUSEMENT ARCADE** shall mean a building or a part of a building where five or more pinball machines, video games, or other similar player-orientated amusement devices are available and are maintained for use.

2.02.32 **AMUSEMENT PARK** shall mean a facility, primarily outdoors, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

2.02.33 **ANIMAL HOSPITAL** (see Hospital, animal)

2.02.34 **ANIMALS, DOMESTIC** (see Household pet)

2.02.35 **ANIMAL SPECIALTY SERVICES** shall refer to establishments primarily engaged in pet grooming, clipping, bathing, daycare, training courses, obedience classes, and similar services. Does not include veterinary services or overnight boarding kennels. (Ordinance No. 1053, 1-15-08)

2.02.36 **ANTENNA** shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. (Also, see Satellite Dish Antenna ~~and Tower~~.)

2.02.37 **ANTIQUE SHOPS STORE** shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, belonging to the past, at least 30 years old.

2.02.38 **APARTMENT** shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together ~~as a single housekeeping unit~~. (Also, see Dwelling Unit)

2.02.39 **APARTMENT HOUSE** (see Dwelling, multiple family)

2.02.40 **APPAREL SHOP** shall mean retail stores where clothing is sold, such as department stores, shoe stores, and dress, hosiery, and millinery shops.

2.02.41 **APPLIANCE STORE** shall refer to retail shops selling equipment used for domestic functions. A store may include heavy appliances such as refrigerators, washers, dryers, ovens, dishwashers, or other similar domestic equipment. The store may also include smaller appliances such as televisions, computers, radios, microwaves, and other similar domestic equipment.

2.02.42 **APPEARANCE** shall mean the outward aspect visible to the public.

2.02.43 **APPROPRIATE** shall mean the sympathetic, or fitting, to the context of the site and the whole community.

2.02.44 **APPURTEANCES** shall mean the visible, functional objects accessory to and part of buildings.

2.02.45 **ARCHITECTURAL CANOPY SIGN** (see Sign, architectural canopy)

2.02.46 **ARCHITECTURAL CHARACTER** (see Architectural Concept)

2.02.47 **ARCHITECTURAL CONCEPT** shall mean the basic aesthetic idea of a building, or group of buildings or structures, including the site and landscape development ~~that produces the architectural character~~.

2.02.48 **ARCHITECTURAL FEATURE** shall mean a prominent or significant part or element of a building, structure, or site. Architectural features may include special lines, massing, and/or texture.

2.02.44.01 **LINES** shall mean visual elements of the building, either within the façade or on the

building edge, which are in a linear form either horizontally or vertically and may be composed of masonry, glass, or other related materials.

2.02.44.02 **MASS** shall pertain to the volume or bulk of a building or structure.

2.02.44.03 **TEXTURE** shall mean the quality of a surface, ranging from mirror finish, smooth, to coarse and unfinished.

2.02.49 **ARCHITECTURAL STYLE** shall mean the characteristic form and detail, as of buildings of a particular historic period.

2.02.50 **ART GALLERY** shall mean an establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art. This clarification does not include libraries, museums, or non-commercial art galleries.

2.02.51 **ARTISAN PRODUCTION SHOP** shall mean a building or portion thereof used for the creation of original handmade works of art or craft items by more than three but less than six artists or artisans, as either a principal or accessory use.

2.02.52 **ARTIST STUDIO** shall mean a place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan, or craftsman, including persons engaged in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.

2.02.53 **ATTACHED PERMANENTLY** shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from a permanent foundation or structural change in such structure in order to relocate it to another site.

2.02.54 **ATTRACTIVE** shall mean having qualities that arouse interest and pleasure in the observer.

2.02.55 **AUCTION SALES** shall mean a building or structure or lands used for the storage of goods, materials or livestock which are to be sold on the premises by public auction and for the sale of the said goods, materials or livestock by public auction and on an occasional basis. Auction sales also includes motor vehicle wholesale sales, including trailers, trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. (Ordinance No. 891, 2-04-03)

2.02.56 **AUTOMATIC AUTOMATED TELLER MACHINE (ATM)** shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.

2.02.57 **AUTOMOBILE SALES** shall mean the storage and display for sale or lease of more than two motor vehicles or any type of trailer (provided the trailer is unoccupied) at any one time and/or a total of ten or more sold or leased during the course of a calendar year, and where repair or body work is incidental to the operation of the new or used vehicle sales or leasing. Automobile sales includes all motor vehicle retail sales and leases including trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. (Also, see Auction Sales) (Ordinance No. 891, 2-04-03)

2.02.58 **AUTOMOTIVE REPAIR SERVICES** shall refer to any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work; oil change and lubrication; major painting services; collision services; and tire service and sales. (Ordinance No. 1053, 1-15-08)

2.02.59 **AUTOMOTIVE SERVICES** shall refer to any building, structure, improvements or land used for the general maintenance of automobiles, motorcycles, trucks, trailers or similar vehicles including but not limited to washing, cleaning, and/or detailing; installation of car stereos, accessories, or other light equipment; and minor painting. (Ordinance No. 1053, 1-15-08)

2.02.60 **AUTOMOBILE WRECKING YARD** shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.

2.02.61 **BAKERY SHOP** shall mean an establishment primarily engaged in the retail sale of baked products. The products may be prepared either on or off site. A bakery shall be considered a general retail use.

2.02.62 **BANK** shall mean a freestanding building or secondary use within a building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

2.02.63 **BAR** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. (Also, see Nightclub)

2.02.64 **BASEMENT** shall mean a building space partly underground, and having at least one-half (1/2) of its height, measuring from its floor to its ceiling, above the average adjoining finished ground grade line.

2.02.65 **BEACON** shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

2.02.66 **BEAUTY SHOP** shall mean any establishment where cosmetology services are provided including hair care, nail care, and skin care on a regular basis for compensation.

2.02.67 **BED and BREAKFAST INN** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator ~~of the inn~~ shall live on the premises.

2.02.68 **BEDROOM** shall mean a room within a dwelling unit planned and intended for sleeping, ~~separable~~ separated from other rooms by a door.

2.02.69 **BERM** shall mean a raised form of earth to provide screening or to improve the aesthetic character.

2.02.70 **BEST INTERESTS OF COMMUNITY** shall mean interests of the community at large and not interest of the immediate neighborhood.

2.02.71 **BILLBOARD** (see Sign, Billboard)

2.02.72 **BLOCK** shall mean a parcel of land platted into lots and bounded by public streets or by waterways, rights-of-way, unplatted land, City-County boundaries, or adjoining property lines.

2.02.73 **BLOCK FRONTRAGE** shall mean that section of a block fronting on a street between two intersecting streets or other block boundary.

2.02.74 **BOARD OF ADJUSTMENT** shall mean that board that has been created by the city and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.

2.02.75 **BOARDING OR ROOMING HOUSE** shall mean a building containing a single dwelling unit and provisions for not more than five (5) guests, where lodging is provided with or without meals for compensation. (Also, see *Bed and Breakfast*)

2.02.76 **BOOK STORE** shall mean a retail establishment that, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software, or any other printed or electronically conveyed information or media, excluding any uses defined as "adult entertainment establishments".

2.02.77 **BOWLING CENTER** shall mean an establishment that devotes more than 50 percent of its gross floor area to bowling lanes, equipment, and playing area. Accessory uses such as the retail sale of snacks, the retail sale of beverages, and a video game arcade are customary.

2.02.78 **BREW-ON PREMISES STORE** shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sale of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.

2.02.79 **BREW PUB** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging, shall not exceed twenty-five (25) percent of the total floor area of the commercial space.

2.02.80 **BREWERY** shall mean an industrial use that brews ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined) annually.

2.02.81 **BREWERY, CRAFT** shall mean a brew pub or a micro brewery.

2.02.82 **BREWERY, MICRO** shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 10,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.

2.02.83 **BROADCASTING TOWER** shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceed the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding fifty (50) feet in height shall not be considered broadcast towers.

2.02.84 **BUFFER** shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. (Also, see *Screening*)

2.02.85 **BUFFER ZONE** shall mean an area of land that separates two zoning districts and/or land uses that acts to soften or mitigate the effects of one use on the other.

2.02.86 **BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Trailers, with or without wheels, shall not be considered as buildings.

2.02.87 **BUILDING, ACCESSORY** shall mean any detached subordinate building which serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.

2.02.88 **BUILDING, AREA OF** shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.

2.02.89 **BUILDING CODE** shall mean the various codes of the City that regulate construction and requires building permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work regulated by the Uniform Building Code, and other codes adopted by the City that pertain to building construction.

2.02.90 **BUILDING, HEIGHT** shall mean the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance at the exterior wall of the building. (Also, see Height)

2.02.91 **BUILDING INSPECTOR** shall mean the *Building Inspector Chief Building Official* of the City of La Vista, Nebraska.

2.02.92 **BUILDING PRINCIPAL** shall mean a building within which the main or primary use of the lot or premises is located. (Also, see Principal Use)

2.02.93 **BUILDING SETBACK LINE** shall mean the minimum of distance as prescribed by this regulation between any property line and the closest point of the building line or face of any building or structure related thereto.

2.02.94 **BUSINESS OR TRADE SCHOOL** (see Special or Vocational Training Facilities)

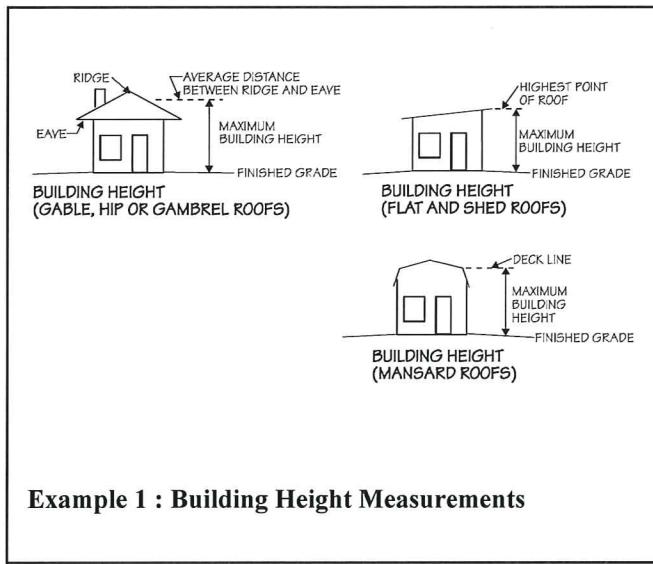
2.02.95 **BUSINESS SERVICES** shall mean establishments primarily engaged in rendering services to business establishments on a contract or fee basis, such as advertising, credit reporting, collection of claims, mailing, reproduction, stenographic, news syndicates, computer programming, photocopying, duplicating, data processing, services to buildings, and help supply services. (See also Standard Industrial Classification (SIC) Major Group 73, published by the U.S. Department of Labor.) (Ordinance No. 1053, 1-15-08)

2.02.96 **CAMPGROUND** shall mean a parcel of land intended for the temporary occupancy of tents, campers, and ~~major~~ recreational vehicles and which primary purpose is recreational, having open areas that are natural in character.

2.02.97 **CAR WASH** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles, not including semi-trailer tractors, buses, and commercial fleets.

2.02.98 **CAR WASH, INDUSTRIAL** shall mean a mechanical facility for the washing, waxing and vacuuming of heavy trucks and buses.

2.02.99 **CARPORT** shall mean a permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage.



Example 1 : Building Height Measurements

2.02.100 **CELLAR** shall mean a building space having more than one-half (1/2) of its height below the average adjoining grade lines.

2.02.101 **CEMETERY** shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.

2.02.102 **CHANGEABLE COPY** shall refer to a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without, altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.

2.02.103 **CHANNEL** shall mean the geographical area within either the natural or artificial banks of a watercourse or drainway.

2.02.104 **CHARITABLE ORGANIZATION or CLUB** shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.

2.02.105 **CHILD CARE CENTER** shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for thirteen (13) or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

2.02.106 **CHILD CARE HOME** shall mean an operation in the provider's place of residence which serves at least four (4), but not more than eight (8) children at any one time, from families other than that of the provider. A Family Child Care Home I provider may be approved to serve no more than two (2) additional school-age children during non-school hours. A Family Child Care Home II operation may be either in the provider's own place of residence or a site other than the residence, serving twelve (12) or fewer children at any one time. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.

2.02.107 **CHURCH, STOREFRONT** shall mean a religious facility contained within a store or similar structure not typically used for religious activities that are now used as a meeting place for a congregation. Structures adapted for congregations include barns, stores, warehouses, old public buildings, and single-family dwellings.

2.02.108 **CITY** shall mean the City of La Vista.

2.02.109 **CLEAR VIEW ZONE** shall mean the area of a corner lot closest to the intersection that is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. (Also see Site Triangle)

2.02.110 **CLUB** shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.

2.02.111 **CODE** shall mean the Municipal Code of the City of La Vista.

2.02.112 **COFFEE KIOSK** shall mean a retail food business in a freestanding building that sells coffee, or other beverages, and remade bakery goods from a drive-through window or walk-up window. (Ordinance No. 1053, 1-15-08).

2.02.113 **COHESIVENESS** shall mean the unity of composition between design elements of a building and/or a group of buildings and the landscape development.

2.02.114 **COMMISSION** shall mean the La Vista Planning Commission.

2.02.115 **COMMERCIAL MESSAGE** shall mean any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

2.02.116 **COMMON AREA OR PROPERTY** shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners of the individual building sites in a Planned Development or condominium development.

2.02.117 **COMMUNICATION SERVICES** shall mean establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services or wireless communication towers. Typical uses include television studios, communication service centers, internet service offices, or film and sound recording facilities.

2.02.118 **COMMUNITY CENTER** shall mean a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.

2.02.119 **COMPATIBILITY** shall mean harmony in the appearance of two or more external design features in the same vicinity.

2.02.120 **COMPATIBLE USES** shall mean a land use which is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.

2.02.121 **COMPREHENSIVE PLAN** shall mean the Comprehensive Plan of La Vista, Nebraska as adopted by the City Council, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in Section 19-903, R.R.S. 1943, as the same may, from time-to-time, be amended.

2.02.122 **CONDITIONAL USE** shall mean a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

2.02.123 **CONDITIONAL USE PERMIT** shall mean a permit issued by the Planning Commission and City Council that authorizes the recipient to make conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon, or required by said permit.

2.02.124 **CONDOMINIUM** shall be as defined in the Nebraska State Statutes Section 76-824 - 76-894, the Condominium Law, whereby four or more apartments are separately offered for sale.

2.02.125 **CONFLICTING LAND USE** shall mean the use of property which transfers over neighboring property lines negative economic, or environmental effects, including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.

2.02.126 **CONGREGATE HOUSING** shall mean a residential facility for four or more persons fifty-five (55) years or over, their spouses, or surviving spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room or unit in the residential facility. (Also see Housing for the elderly)

2.02.127 **CONSERVATION** shall mean the protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings or natural resources.

2.02.128 **CONSERVATION AREA** shall mean environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.

2.02.129 **CONSERVATION EASEMENT** shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.

2.02.130 **CONSTRUCTION** shall mean on-site erection, fabrication, installation, alteration, demolition, or removal of any structure, facility, or addition thereto, including all related activities, but not restricted to, clearing of land, earth moving, blasting and landscaping.

2.02.131 **CONTIGUOUS** shall mean the same as "Abut".

2.02.132 **CONVENIENCE STORE** shall mean a one-story, retail store ~~containing less than 2,000 square feet of gross floor area~~ that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. ~~(Also, see self-service Station) Fuel sales shall be limited to automobiles, pick-up trucks, boats, recreational vehicles, motorcycles, and small motorized equipment.~~

2.02.133 **COPY CENTER** shall mean a retail establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment, and may include the collating and binding of booklets and reports.

2.02.134 **COURT** shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and abounded on two (2) or more sides by such buildings.

2.02.135 **COURT, INNER** shall mean a court enclosed on all sides by the exterior walls of a building or buildings.

2.02.136 **COURT, OUTER** shall mean a court enclosed on all but one (1) side by exterior walls of a building or buildings or lot lines on which fences, hedges, or walls are permitted.

2.02.137 **CUL DE SAC** shall mean a short public way that has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

2.02.138 **CURVE LOT** (see Lot, Curve)

2.02.139 **DENSITY** shall mean the number of dwelling units per gross acre of land.

2.02.140 **DETENTION BASIN** shall mean a facility for the temporary storage of stormwater runoff.

2.02.141 **DEVELOPER** shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.

2.02.142 **DEVELOPMENT** shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required. *Also, shall mean any material change in the use or appearance of any structure or in the land itself; the division of land into separate lots; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any activity that alters a river, stream, lake, pond, woodland, wetland, endangered species habitat, aquifer or other resource area.*

2.02.143 **DEVELOPMENT CONCEPT PLAN** (See Site Plan)

2.02.144 **DEVELOPMENT REVIEW** shall mean the review, by the city, of subdivision plats, site plans, rezoning requests, or permit review.

2.02.145 **DOG KENNEL** (See Kennel, ~~commercial~~; and ~~Kennel, private~~)

2.02.146 **DOMESTIC ANIMALS** (See Household Pet)

2.02.147 **DOWNZONING** shall mean a change in zoning classification of land to a less intensive or more restrictive district such as from commercial district to residential district or from a multiple family residential district to single family residential district.

2.02.148 **DRAINAGEWAY** shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well defined banks; provided that in the event of doubt as to whether a depression is a waterecourse or drainway, it shall be presumed to be a waterecourse.

2.02.149 **DRAINAGE** shall mean the removal of surface water or groundwater from land by drains, grading, or other means that include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply, and the prevention or alleviation of flooding.

2.02.150 **DRIVE IN FACILITY** shall mean an establishment where customers can be served without leaving the confinement of their vehicle.

2.02.151 **DRIVEWAY** shall mean any vehicular access to an off-street parking or loading facility.

2.02.152 **DUMP** shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process.

2.02.153 **DUPLEX** shall mean the same as "Dwelling, Two (2) Family".

2.02.154 **DWELLING** Any building or portion thereof which is designed and used exclusively for single family residential purposes, excluding mobile homes.

2.02.155 **DWELLING, MANUFACTURED HOME** A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.

2.02.156 **DWELLING, MOBILE HOME** Any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or rollers, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

2.02.137.01 Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.

2.02.137.02 Permanent Foundation: Base on which building rests to be constructed from either poured concrete or laid masonry block or brick placed on a footing located below ground level to a point below the frost line. *(see 2.02.312) on a footing to be placed a minimum of 42" below the final ground level!*

2.02.142 DWELLING, MODULAR (Is considered a conventional type single family dwelling). Any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections. To be a modular home it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health and Human Services under the authority granted by Section 71-1555 through 71-1567 Revised Statutes of Nebraska 1943, in addition to any amendments thereto, those that do not meet the above criteria shall be considered a mobile home.

2.02.143 **DWELLING, MULTIPLE FAMILY** shall mean a building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.

2.02.144 DWELLING, SEASONAL shall mean a dwelling designed and used as a temporary residence and occupied less than six (6) months in each year.

2.02.145 **DWELLING, SINGLE FAMILY** a building having accommodations for or occupied exclusively by one family which meet all the following standards:

2.02.145.01 The home shall have no less than nine hundred (900) square feet of floor area, above grade, for single story construction;

2.02.145.02 The home shall have no less than an eighteen (18) foot exterior width;

2.02.145.03 The roof shall be pitched with a minimum vertical rise of two and one-half (2 1/2) inches for each twelve (12) inches of horizontal run;

2.02.145.04 The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction;

2.02.145.05 The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock;

2.02.145.06 The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed;

2.02.145.07 The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district; and

2.02.145.08 Permanent foundation: continuous perimeter base on which building rests to be constructed from either poured concrete or laid masonry block or brick *on a footing to be placed a minimum of forty two (42) inches below the final ground level placed on a footing located below ground level to a point below the frost line.*

2.02.146 DWELLING, SINGLE FAMILY (ATTACHED) shall mean a one family dwelling unit that is attached to one additional single family dwelling. Said dwelling units are separated by an

~~unpierced common wall through the center of the structure that also sits along the property line separating ownership of the structure.~~

2.02.147 **DWELLING, TWO (2) FAMILY** shall mean a building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family.

2.02.148 **DWELLING UNIT** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.

2.02.149 **EASEMENT** shall mean a space or a lot or parcel of land reserved for or used for public utilities or public or private uses.

2.02.150 **EDUCATIONAL INSTITUTION FACILITY** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, commercial, or private trade schools are not included in this definition.

2.02.151 **EFFECTIVE DATE** shall mean the date that this Ordinance shall have been adopted, amended, or the date land areas became subject to the regulations contained in this Ordinance as a result of such adoption or amendment.

2.02.152 **ELEEMOSYNARY INSTITUTION** shall mean any building or group of buildings devoted to and supported by charity.

2.02.153 **ENCROACHMENT** shall mean an advancement or intrusion beyond the lines or limits as designated and established by the Regulation, and to infringe or trespass into or upon the possession or right of others without permission.

2.02.154 **ENLARGEMENT** shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.

2.02.155 **ERECTED** shall mean constructed upon or moved onto a site.

2.02.156 **EVENT CENTER** shall mean all buildings and associated parking facilities which are kept, used, maintained, advertised, held out, leased out, or otherwise made available to private groups and/or the general public for such purposes as meetings, civic, educational, political, religious or social purpose such as receptions, dances, entertainment, secondhand merchandise sales and the like, and may include a banquet hall, private club or fraternal organization, but not including uses defined in Adult Establishment. (Ordinance No. 955, 7-19-05)

2.02.157 **EXERCISE, FITNESS and TANNING SPA** shall mean an establishment that provides exercise facilities for the purposes of running, jogging, aerobics, weight lifting, court sports, and/or swimming, as well as locker rooms, showers, massage rooms, tanning beds, hot tubs, saunas or other related accessory uses; however, excluding any uses defined as "adult entertainment establishments".

2.02.158 **EXPRESSWAY** shall mean a street or road that provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.

2.02.159 **EXTERIOR BUILDING COMPONENT** shall mean an essential and visible part of the exterior of a building.

2.02.160 **EXTERNAL DESIGN FEATURE** shall mean the general arrangement of any portion of a building, sign, landscaping, or structure and including the kind, color, and texture of the materials of such portion, and the types of roof, windows, doors, lights, attached or ground signs, or other fixtures appurtenant to such portions as will be open to public view from any street, place, or way.

2.02.161 **EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits, in which the City has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers.

2.02.162 **FAÇADE** shall mean the exterior wall of a building exposed to public view from the building's exterior.

2.02.163 **FACTORY** shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.

2.02.164 **FAMILY** shall mean ~~a household head and one or more persons related to the head by blood, marriage or adoption living together in a single dwelling unit. a person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities: (1) any number of people related by blood, marriage, adoption, guardianship, or duly-authorized custodial relationship; (2) up to four unrelated people and any related children; and (3) a group care home.~~

Family does not include any society, club, fraternity, sorority, association, lodge, organization, group of students, or other individuals where the common living arrangement is temporary or seasonal. Also, the term does not include any group of individuals who are in a group living arrangement as a result of criminal offenses.

2.02.165 **FARM** an area containing at least twenty (20) acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain; ~~and the storing of such products on area; and/or as well as for the raising thereon of the usual farm poultry and~~ farm animals. The term farming includes the operating of such area for ~~one two~~ or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

2.02.166 **FEEDLOT** shall mean a lot, yard, corral or other area in which livestock are confined, primarily for the purpose of feeding and growth prior to slaughter. The term does not include areas which are used for raising crops or other vegetation or upon which livestock are allowed to graze.

2.02.167 **FENCE** shall mean a structure serving as an enclosure, barrier or boundary.

2.02.168 **FENCE, OPEN** shall mean a fence, including gates, which has, ~~for each one foot (1') wide segment extending over the entire length and height of fence,~~ fifty percent (50%) or more of the surface area in open spaces which affords direct views through the fence.

2.02.169 **FENCE, SEASONAL** shall mean a temporary fence constructed of plastic or wood lathe erected and maintained from October through April to prevent snow drifting. (Ordinance No. 871, 10-15-02)

2.02.170 **FENCE, SOLID** shall mean any fence which does not qualify as an open fence.

2.02.171 **FESTIVAL** shall mean the sale of ethnic specialty, regional, and gourmet foods, art and crafts, live musical entertainment, in an outdoor setting.

2.02.172 **FLOOD** (see Section 5.18.25 of this Ordinance)

2.02.173 **FLOOD PLAIN** (see Section 5.18.25 of this Ordinance)

2.02.174 **FLOODWAY** (see Section 5.18.25 of this Ordinance)

2.02.175 **FLOOR AREA** whenever the term "floor area" is used in this Regulation as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.

2.02.176 **FOOD SALES** shall mean establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

2.02.176.01 **FOOD SALES (LIMITED)** shall mean food sales establishments occupying 10,000 square feet or less of space.

2.02.176.02 **FOOD SALES (GENERAL)** shall mean food sales establishments occupying more than 10,000 square feet of space. Typically a supermarket.

2.02.177 **FRONTAGE** shall mean that portion of a parcel of property which abuts a dedicated public street or highway.

2.02.178 **GARAGE, PRIVATE** shall mean a detached accessory building or *an attached* portion of a *dwelling main building on the same lot as a dwelling* for the housing of vehicles *of the occupants of the dwelling*, including carports.

2.02.179 **GARAGE, PUBLIC** shall mean any garage other than a private garage.

2.02.180 **GARAGE, REPAIR** shall mean 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. (Also, see Service Station)

2.02.181 **GARBAGE** shall mean any waste food material of an animal or vegetable nature, including that which may be used for the fattening of livestock.

2.02.182 **GATED COMMUNITIES** shall mean residential areas that restrict access to normally public spaces. These are subdivisions of usually high end houses. The type of gates can range from elaborate guard houses to simple electronic arms.

2.02.183 **GRADE** shall mean the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

2.02.184 **GRAPHIC ELEMENT** shall mean a letter, illustration, symbol, figure, insignia, or other device employed to express and illustrate a message or part thereof.

2.02.185 **GREENHOUSE** shall mean a building or premises used for growing plants, preparation of floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.

2.02.186 **GREENWAY** shall mean a parcel or parcels of land, together with the improvements thereon, dedicated as an easement for access and/or recreation; usually a strip of land set aside for a walkway, bicycle trail, bridal path, or other similar access way.

2.02.187 **GROUND COVER** shall mean plant material used in landscaping which remains less than twelve (12) inches in height at maturity. (Also, see Landscaping)

2.02.188 **GROUNDWATER** shall mean water occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.

2.02.189 **GROUP CARE HOME** shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four (24) hour care for individuals in a residential setting. *This term does not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals where the common living arrangement is temporary or seasonal. Also, the term does not include any group of individuals who are in a group living arrangement as a result of criminal offenses.*

2.02.190 **GROUP HOME FOR THE HANDICAPPED** shall mean a dwelling with resident staff shared by four or more handicapped persons 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 residents to live as 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; or (2) A record of having such impairment.

2.02.191 **GROUP HOUSING** shall mean two or more separate buildings on a lot, each containing one (1) or more dwelling units.

2.02.192 **GUNSMITH** shall mean a shop that designs, makes or repairs small firearms.

2.02.193 **GUEST ROOM** shall mean a room which is designed to be occupied by one (1) or more guest for sleeping purposes, having no kitchen facilities, not including dormitories.

2.02.194 **HALF STORY** shall mean a story under a gable, hip or gambrel roof, plates of which are not more than three (3) feet above the floor of such story.

2.02.195 **HALFWAY HOUSE** shall mean a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.

2.02.196 **HARD SURFACED** shall mean any surface used for movement of vehicular and / or pedestrians which is properly designed ~~and paved~~ with either permeable pavement, bricks, interlocking concrete pavers, asphalt or concrete.

2.02.197 **HARMONY** shall mean a quality that represents an appropriate and congruent arrangement of parts, as in an arrangement of varied architectural and landscape elements.

2.02.198 **HAZARDOUS WASTE / MATERIALS** shall mean waste products of industrial or chemical process including finished surplus, used, contaminated or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.

2.02.199 **HEALTH CLUB** shall mean privately owned for profit facilities such as gymnasiums, athletic clubs, ~~health clubs~~, recreational clubs, reducing salons, and weight control establishments.

2.02.200 **HEALTH RECREATION FACILITY** shall mean an indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa and/or sauna and pro shop.

2.02.201 **HEDGE** shall mean a plant or series of plants, shrubs or other landscape material, so arranged as to form a physical barrier or enclosure.

2.02.202 **HEIGHT OF BUILDING** shall mean the vertical distance above grade to the highest point of the coping of a flat roof, of the peak of a gable roof, or of any other type of pitched, hipped, or mansard roof. The grade may mean the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than ten (10) feet above grade. The height of a stepped or terraced building is the maximum height of any segment of the building.

2.02.203 **HOME IMPROVEMENT CENTER** shall mean a facility of more than 30,000 square feet of gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, garden supplies, and cutlery.

2.02.204 **HOME OCCUPATION** shall mean an "in-home" or "home based" or entrepreneurial business, *industry, service or other concern (not including uses defined as Adult Establishment)* operating from a residential dwelling within La Vista, *or within an accessory structure on the same property*. Home occupations are considered *secondary in nature to the primary use of the structure and/or property* in all residential zoning districts. *Occupations defined as Home Occupation II are exempt from a conditional use permit. All home occupations (I and II) are required to have a Home Occupation License.* (*Ordinance No. 879, 11-19-02*)

2.02.204.01 ***Home Occupation I:*** shall include art/craft making, seamstress services, professional offices (real estate/insurance/medical), multi-level marketing, vending services, service businesses (contracting/janitorial/mechanical), instruction (music), consulting, wholesale/catalogue sales, personal service (Beauty/barber/massage/tattoo), shops, renting of rooms for residential purposes, and other similar uses. (*Ordinance No. 879, 11-19-02*)

2.02.204.02 ***Home Occupation II:*** shall include occupations in which a home phone, computer, etc. are used in deriving income or sales. This includes business offices for services such as construction, repair and cosmetic services/sales rendered at other locations, internet business, and other similar uses. (*Ordinance No. 879, 11-19-02*)

2.02.205 **HOME OCCUPATION LICENSE** shall mean a license provided to the owner/operator of a home occupation. Such license shall include (but not limited to) the following: (*Ordinance No. 879, 11-19-02*)

2.02.205.01 Application fee in accordance with Master Fee Schedule. (*Ordinance No. 879, 11-19-02*)

2.02.205.02 A minimum of seventy-five percent (75%) of the households within two hundred feet (200') of the proposed home occupation shall indicate no objections, in writing, to the operation of such home occupation. A "no objections" signature form shall be provided by the City and said residents shall sign next to their respective address. (*Ordinance No. 879, 11-19-02*)

2.02.205.03 Minimum standards for home occupations as provided in Section 7.10 of the Supplemental Regulations. (*Ordinance No. 879, 11-19-02*)

2.02.205.04 Conditional use permit, except for Home Occupation II uses and child care homes. (*Ordinance No. 879, 11-19-02*)

2.02.206 **HOME OCCUPATION PERMIT** (see Home Occupation License) (*Ordinance No. 879, 11-19-02*)

2.02.207 **HOME OCCUPATION TAX** (see Home Occupation License) (Ordinance No. 879, 11-19-02)

2.02.208 **HOMEOWNERS ASSOCIATION** shall mean a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.

2.02.209 **HOSPITAL, ANIMAL** shall mean a place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use. (Ordinance No. 871, 10-15-02)

2.02.210 **HOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. ~~The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court and motor hotel.~~

2.02.211 **HOUSE TRAILER** (see Dwelling, Mobile Home)

2.02.212 **HOUSEHOLD PET** shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.

2.02.213 **IMPERVIOUS SURFACE** shall mean a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as rock, gravel, or clay and conventionally surfaced streets, sidewalks, parking lots, and driveways.

2.02.214 **INCIDENTAL USE** shall mean a use, which is subordinate to the main use of a premise.

2.02.215 **INDOOR RECREATIONAL FACILITY** shall refer to use of a facility for purposes of recreation. The use shall be completely enclosed within a building with the exception of retractable roofs. Examples include, but are not limited to sports courts, gymnastics, kart racing, batting cages, practice fields, and miniature golf.

2.02.216 **INDUSTRY** shall mean the manufacture, fabrication, processing reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

2.02.217 **INFILL DEVELOPMENT** shall mean the construction of a building or structure on a vacant parcel located in a predominately built up area.

2.02.218 **INFILL SITE** shall mean any vacant lot, parcel, or tract of land within developed areas of the city, where at least eighty percent (80%) of the land within a 300 foot radius of the site has been developed, and where water, sewer, streets, schools, and fire protection have already been constructed or are provided.

2.02.219 **INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which may or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle which is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.

2.02.220 **INTENSITY** shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate

concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.

2.02.221 **INTENT AND PURPOSE** shall mean that the Commission and Council by the adoption of this Ordinance have made a finding that the health, safety, and welfare of the community will be served by the creation of the zoning districts and by the regulations prescribed therein.

2.02.222 **JUICE BAR** (See Adult Establishment)

2.02.223 **JUNK** shall be any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.

~~2.02.224 **JUNK YARD** shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment; resulting from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see "Automobile Wrecking Yard".~~

~~2.02.225 **KENNEL, BOARDING AND TRAINING** shall mean any lot or premises on which three (3) or more dogs, cats or non-farm/non-domestic or any combination of five (5) or more thereof, at least four (4) months of age, are boarded, bred, or trained for a fee.~~

2.02.226 **KENNEL, COMMERCIAL** shall mean an establishment where three (3) or more dogs, cats, or other household pets, or non-farm/non-domestic or any combination of five (5) or more thereof, at least four (4) months of age are ~~groomed, bred, boarded, trained, or sold~~ as a business.

2.02.227 **LABORATORY** shall mean a facility used for testing and analyzing medical and dental samples from off-site locations. Testing laboratories shall refer to soil and geotechnical research and analysis. Laboratories do not include human or animal research / testing facilities.

~~2.02.228 **LAGOON** shall mean a wastewater treatment facility which is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services. All lagoons shall have the proper permits approved prior to starting construction.~~

~~2.02.229 **LANDFILL** shall mean a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.~~

2.02.230 **LANDSCAPE** shall mean plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.

2.02.231 **LANDSCAPING** shall include the original planting of suitable vegetation in conformity with the requirements of this Regulation and the continued maintenance thereof.

~~2.02.232 **LARGE BOX RETAIL** shall mean a singular retail or wholesale user that occupies no less than 30,000 square feet of gross floor area. These uses typically include: membership wholesale clubs emphasizing in large bulk sales, discount stores, pharmacies, grocery stores, especially warehouse style point of sale concepts and department stores.~~

2.02.233 **LAUNDRY, SELF SERVICE** shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.

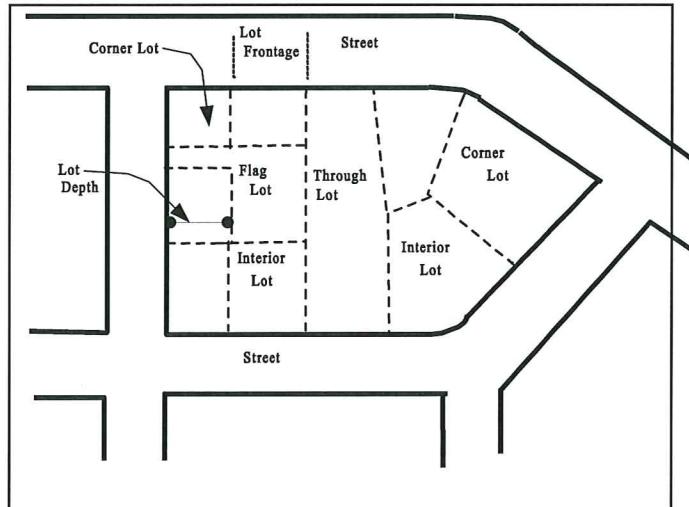
2.02.234 LIFE CARE FACILITY shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals and culminating in full health and continuing care nursing home facility. (Also, see Congregate Housing and Housing for the Elderly)

2.02.235 LIGHT CUT-OFF ANGLE shall mean an angle from vertical, extending downward from a luminaire, which defines the maximum range of incident illumination outward at the ground plane.

2.02.236 LIMITS OF GRADING shall mean the outermost edge of the area in which the existing topography is to be altered by cutting and/or filling.

2.02.237 LOADING SPACE AREA shall mean an off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.

2.02.238 LOGIC OF DESIGN shall mean accepted principles and criteria of validity in the solution of the problem of design.



2.02.239 LOT shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Register of Deeds and abutting at least one (1) public street or right-of-way, two (2) thoroughfare easements *with dedicated public access*, or one (1) private road.

2.02.240 LOT AREA shall mean the total area, on a horizontal plane, within the lot lines of a lot.

2.02.241 LOT, CORNER shall mean a lot located at the intersection of two (2) or more streets at an angle of not more than one hundred thirty-five (135) degrees. If the angle is greater than one hundred thirty-five (135) degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets.

2.02.242 LOT COVERAGE shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.

2.02.243 LOT, CURVE shall mean a lot fronting on the outside curve of the right of way of a curved street, which street has a centerline radius of three hundred (300) feet or less.

2.02.244 LOT DEPTH shall mean the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

2.02.245 LOT, DOUBLE FRONTAGE shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.

2.02.246 **LOT, FLAG** shall mean a lot with frontage and access provided to the bulk of the lot by means of a narrow corridor.

2.02.247 **LOT, FRONTRAGE** shall mean the side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.

2.02.248 **LOT, INTERIOR** shall mean a lot other than a corner lot.

2.02.249 **LOT LINE** shall mean the property line bounding a lot.

2.02.250 **LOT LINE, FRONT** shall mean the property line abutting a street.

2.02.251 **LOT LINE, REAR** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.

2.02.252 **LOT LINE, SIDE** shall mean any lot line *that is* not a front lot line or rear lot line.

2.02.253 **LOT, NONCONFORMING** shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Register of Deeds, which does not abut a public road or public road right of way and which was lawfully created prior to the effective date of this Regulation.

2.02.254 **LOT, THROUGH** shall mean a lot having frontage on two (2) dedicated streets, not including a corner lot.

2.02.255 **LOT OF RECORD** shall mean a lot held in separate ownership as shown on the records of the County Register of Deeds at the time of the passage of a regulation or regulations establishing the zoning district in which the lot is located.

2.02.256 **LOT WIDTH** shall mean the average horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

2.02.257 **MAIL ORDER SERVICES** shall mean an establishment primarily engaged in the retail sale of products by television, telemarketing, internet, catalog, and mail order. Such a use may include warehousing, shipping, and receiving of merchandise intended for retail sale.

2.02.258 **MANUFACTURED HOME PARK** shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. The term "manufactured home park" does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.

2.02.259 **MANUFACTURED HOME SUBDIVISION** shall mean any area, piece, parcel, tract or plot of ground subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.

2.02.260 **MANUFACTURING** shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors.

Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

2.02.261 **MANUFACTURING, LIGHT** shall mean an establishment engaged in the indoor manufacturing, assembly, fabrication, packaging or other industrial processing of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services, where there are few external effects across property lines. This term includes but is not limited to a business engaged in the processing, fabrication, assembly, treatment, or packaging of food, textile, leather, wood, paper, chemical, plastic, or metal products, but does not include basic industrial processing from raw materials. (*Ordinance No. 1053, 1-15-08*)

2.02.262 **MAP, OFFICIAL ZONING DISTRICT** shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the La Vista City Council.

2.02.263 **MASSAGE ESTABLISHMENT** shall mean any building, room, place, or establishment other than a regularly licensed and established hospital or dispensary where non-medical or non-surgical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational and/or physical therapist, chiropractor, or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing device. Said establishment shall comply with all state regulations as per §71-1,278 through §71-1,283, Nebr. R.R.S., 1943

2.02.264 **MASSAGE PARLOR** (See Adult Uses)

2.02.265 **MASTER FEE SCHEDULE** shall mean a fee schedule maintained by the City of La Vista and passed, and amended periodically, which establishes the required fees to be collected for specific Planning, Zoning, Subdivision, and Building Inspection activities.

2.02.266 **MECHANICAL EQUIPMENT** shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

2.02.267 **MEDICAL / DENTAL OFFICES / CLINICS** shall mean a building or portion of a building containing offices and facilities for providing medical, dental, and psychiatric services for outpatients only.

2.02.268 **MEETING HALL** shall mean a building designed for public assembly.

2.02.269 **MICROBREWERY** (see Brew Pub)

2.02.270 **MINI-STORAGE OR MINI-WAREHOUSE** (See Self-Service Storage Facility)

2.02.271 **MISCELLANEOUS REPAIR SERVICES** shall include electrical repair shops; watch, clock and jewelry repair shops; and re-upholstery and furniture repair. (See also Standard Industrial Classification (SIC) Major Group 76, published by the U.S. Department of Labor) (*Ordinance No. 1053, 1-15-08*)

2.02.272 **MISCELLANEOUS STRUCTURES** shall mean structures, other than buildings, visible from public ways. Examples are: memorials, ~~stagings~~, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, transformers, drive-up facilities.

2.02.273 **MIXED USE** shall mean properties where various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.

2.02.274 **MOBILE HOME** (See Dwelling, Mobile Home)

2.02.275 **MOBILE HOME PARK** (See Manufactured Home Park)

2.02.276 **MOBILE HOME SUBDIVISION** (See Manufactured Home Subdivision)

2.02.277 MONOTONY shall mean repetitive sameness, lacking variety and variation, and/or reiteration.

2.02.278 MORTUARY shall mean an establishment in which the deceased are prepared for burial or cremation. The facility may include funeral services and spaces for informal gatherings or display of funeral equipment. This classification excludes cemeteries.

2.02.279 **MOTEL** (See Hotel)

2.02.280 **MOTOR VEHICLE** shall mean every self-propelled vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs. (*Ordinance No. 891, 2-04-03*)

2.02.281 NEBRASKA REVISED REISSUED STATUTES, 1943 and the abbreviated term Nebr. R. R. S., 1943 are one and the same.

2.02.282 NEWSSTAND shall mean a temporary structure manned by a vendor, whom sells newspapers, magazines and other periodicals.

2.02.283 NIGHTCLUB shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. (Also, see *Bar Tavern*)

2.02.284 NONCOMMUNITY WATER SUPPLY SYSTEM shall mean any public water supply system that is not a community water supply system.

2.02.285 **NON-CONFORMING BUILDING STRUCTURE** shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.

2.02.286 **NON-CONFORMING USE** shall mean a use lawful when established but which does not conform to subsequently established zoning or zoning regulations.

2.02.287 NON FARM BUILDINGS are all buildings except those buildings utilized for agricultural purposes on a farmstead of twenty (20) acres or more which produces one thousand dollars (\$1,000) or more of farm products each year.

2.02.288 **NUISANCE** shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.

2.02.289 **NURSERY** shall mean the use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.

2.02.290 **OFFICE** shall mean a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.

2.02.291 **OFFICE PARK** shall mean a development which contains two or more separate office buildings, accessory and supporting uses, and open space all designed, planned, constructed, and maintained on a coordinated basis.

2.02.292 **OFFICIAL MAP** (See Map, Official Zoning District)

2.02.293 **OFF STREET PARKING AREA or VEHICULAR USE AREA** shall refer to all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.

2.02.294 **OPEN LOTS** shall mean pens or similar concentrated areas, including small shed type areas or open front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed type areas.

2.02.295 **OPEN SPACE** shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.

2.02.296 **OPEN SPACE, COMMON** shall mean a separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Rights-of-way, private streets, driveways, parking lots or other surfaces designed or intended for vehicular use or required yards shall not be included as common open space.

2.02.297 **OUTLOT** shall mean a lot remnant or parcel of land left over after platting, which is intended as open space or other use, for which no building permit shall be issued on any private structures.

2.02.298 **OUTDOOR ADVERTISING** shall include the definitions of "Advertising Structure" and "Sign".

2.02.299 **OUTDOOR STORAGE** shall mean the storage of any material for a period greater than 72 hours not in an enclosed building, including items for sale, lease, processing, and repair (including motor vehicles).

2.02.300 **OVERLAY DISTRICT** shall mean a district in which additional requirements act in conjunction with the underlying zoning district. The ~~original~~ *underlying* zoning district designation does not change.

2.02.301 **OWNER** shall mean one (1) or more persons, including corporations, who have title to the property, building or structure in question.

2.02.302 **PAINTBALL** shall mean all guns and other devices used for the purpose of firing pellets containing a latex paint at a person or target.

2.02.303 **PAINTBALL COURSE, COMMERCIAL** shall mean a commercial recreational park containing obstacle courses for the purpose of staging paintball battles. Said facility generally collects a fee, either as membership or on a visit-by-visit basis that allows individuals to participate in paintball activities.

2.02.304 **PARCEL** shall mean a lot or a contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.

2.02.305 **PARK** shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.

2.02.306 **PARKING AREA, PRIVATE** shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.

2.02.307 **PARKING AREA, PUBLIC** shall mean an area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.

2.02.308 **PARKING SPACE, AUTOMOBILE** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine (9) feet *wide* by eighteen (18) feet *long*, plus such additional area as is necessary to afford adequate ingress and egress.

2.02.309 **PARKWAY** shall mean an arterial highway with full or partial control of access, and located within a park or ribbon of park like development.

2.02.310 **PERFORMANCE GUARANTEE** shall mean a financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with these regulations as well as with approved plans and specifications of a development.

2.02.311 **PERMANENT FOUNDATION** shall mean a base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.

2.02.312 **PERMANENT TREE PROTECTION DEVICES** shall be structural measures, such as retaining walls or aeration devices that are designed to protect the tree and its root systems throughout its lifetime.

2.02.313 **PERMANENTLY ATTACHED** shall mean connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.

2.02.314 **PERMITTED USE** shall mean any land use allowed without condition within a zoning district.

2.02.315 **PERSON** shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, City, County, special district or any other group or combination acting as an entity, except that it shall not include La Vista, Nebraska.

2.02.316 **PET HEALTH SERVICE** (see Hospital, Animal) (*Ordinance No. 871, 10-15-02*)

2.02.317 **PET SHOP** shall mean a retail establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals such as horses, cattle, goats, sheep and poultry.

2.02.318 **PINBALL or VIDEO GAMES BUSINESS** (See Amusement Arcade)

2.02.319 **PLANNED UNIT DEVELOPMENT** shall mean a development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan. (*Ordinance No. 891, 2-04-03*)

2.02.320 **PLANNING COMMISSION** shall mean the Planning Commission of La Vista, Nebraska.

2.02.321 **PLANT MATERIALS** shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs.

2.02.322 **PLAT** shall mean a map showing the location, boundaries, and legal description of individual properties.

2.02.323 **POSTAL STATION** shall mean a commercial business which conducts the retail sale of stationery products, provides packaging and mail services (both U.S. Postal and private service), and provides mailboxes for lease.

2.02.324 **POLICY** shall mean a statement or document of the City, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.

2.02.325 **PREMISES** shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. ~~Shall also mean a building or land within a prescribed area. (See also, Parcel)~~

2.02.326 **PRESCHOOL** shall mean a school or center for children under school age, whether licensed as a day care center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards

2.02.327 **PRINCIPAL BUILDING** shall mean a building within which the main or primary use of the lot or premises is located. *(See also Use, Principal)*

2.02.328 **PROHIBITED USE** shall mean any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.

2.02.329 **PROMOTIONAL DEVICE** shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe type ribbons or piping shall be considered as a promotional device.

2.02.330 **PROPORTION** shall mean a balanced relationship of parts of a building, landscape, structures, or buildings to each other and to the whole.

2.02.331 **PROTECTED ZONE** shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of the Zoning Regulation.

2.02.332 **PUBLIC FACILITIES** shall mean any building held, used, or controlled exclusively for public purposes by any department or branch of federal, state, county, or city government. A building belonging to or used by the public for the transaction of public or quasi-public business. Public services may be rendered from such facilities.

2.02.333 **PUBLIC SERVICES** shall mean services provided by a public agency within a government facility for purposes of public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities.

2.02.334 **PUBLIC UTILITY** shall mean any business which furnishes the general public telephone service, telegraph service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.

2.02.335 **PUBLIC WATER SUPPLY** shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty five individuals. This definition shall include: (1) Any collection,

ORDINANCE NO. ____

AN ORDINANCE TO AMEND SECTION 2.02 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL SECTION 2.02 OF ORDINANCE NO. 848 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Amendment of Section 2.02. Section 2.02 of the Ordinance No. 848 is hereby amended to read as follows:

Section 2.02 Definitions.

- 2.02.01 **ABANDONMENT** shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.
- 2.02.02 **ABUT, ABUTTING** shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley.
- 2.02.03 **ACCESS OR ACCESS WAY** shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Regulation.
- 2.02.04 **ACCESSORY BUILDING** (see Building, accessory)
- 2.02.05 **ACCESSORY STRUCTURE** shall mean a detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.
- 2.02.06 **ACCESSORY USE** shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.
- 2.02.07 **ADJACENT** shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent".
- 2.02.08 **ADULT BOOKSTORE** shall mean any premises from which minors are excluded and in which the retail sale of books, magazines, newspapers, movie films, devices, slides, or other photographic or written reproductions is conducted as a principal use of the premises, if such services are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- 2.02.09 **ADULT COMPANIONSHIP ESTABLISHMENT** shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- 2.02.10 **ADULT ENTERTAINMENT ESTABLISHMENT** shall mean any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but without limitation, adult bookstores, adult motion picture theaters, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, adult internet industries, and adult massage parlor / health club.
- 2.02.11 **ADULT HOTEL OR MOTEL** shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

2.02.12 **ADULT INTERNET INDUSTRIES** shall mean any business within an enclosed building or outdoors that is producing materials for distribution on the Internet of an adult nature, including live video streaming, tape delayed video broadcasts, live simulcasting, still photographs, audio broadcasts, animated video or hard copy. Said uses are intended for viewing by other parties while on-line and for a specified charge. (Ordinance No. 891, 2-04-03)

2.02.13 **ADULT MASSAGE PARLOR, HEALTH CLUB** shall mean a massage parlor or health club, which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

2.02.14 **ADULT MINI-MOTION PICTURE THEATER** shall mean a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

2.02.15 **ADULT MOTION PICTURE ARCADE** shall mean any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

2.02.16 **ADULT MOTION PICTURE THEATERS** shall mean a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

2.02.17 **ADULT NOVELTY BUSINESS** shall mean a business which has as a principal activity of the sale of devices which simulate human genitals or devices which are designed for sexual stimulation.

2.02.18 **ADULT SAUNA** shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

2.02.19 **ADVERTISING STRUCTURE** shall mean any notice or advertisement, pictorial or otherwise, and all such structures used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such Advertising Structure.

2.02.20 **AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES** shall mean any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.

2.02.21 **AGRICULTURE** shall mean the use of land for agricultural purposes, of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any non-agricultural commercial or industrial development.

2.02.22 **AIRPORT** shall mean 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.

2.02.23 **ALLEY** shall mean a minor public service street or public thoroughfare 20 feet or less in width, through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street.

Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.

2.02.24 **ALTERATION** shall mean any change, addition or modification in construction or occupancy of an existing structure.

2.02.25 **AMENDMENT** shall mean a change in the wording, context, or substance of this Regulation, an addition or deletion or a change in the district boundaries or classifications upon the zoning map.

2.02.26 **AMUSEMENT ARCADE** shall mean a building or a part of a building where five or more pinball machines, video games, or other similar player-orientated amusement devices are available and are maintained for use.

2.02.27 **ANIMAL HOSPITAL** (see Hospital, animal)

2.02.28 **ANIMAL SPECIALTY SERVICES** shall refer to establishments primarily engaged in pet grooming, clipping, bathing, daycare, training courses, obedience classes, and similar services. Does not include veterinary services or overnight boarding kennels. (*Ordinance No. 1053, 1-15-08*)

2.02.29 **ANTENNA** shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. (Also, see Satellite Dish Antenna.)

2.02.30 **ANTIQUE** shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, belonging to the past, at least 30 years old.

2.02.31 **APARTMENT** shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together. (Also, see Dwelling Unit)

2.02.32 **APPAREL SHOP** shall mean retail stores where clothing is sold, such as department stores, shoe stores, and dress, hosiery, and millinery shops.

2.02.33 **APPLIANCE STORE** shall refer to retail shops selling equipment used for domestic functions. A store may include heavy appliances such as refrigerators, washers, dryers, ovens, dishwashers, or other similar domestic equipment. The store may also include smaller appliances such as televisions, computers, radios, microwaves, and other similar domestic equipment.

2.02.34 **APPEARANCE** shall mean the outward aspect visible to the public.

2.02.35 **APPROPRIATE** shall mean the sympathetic, or fitting, to the context of the site and the whole community.

2.02.36 **APPURTENANCES** shall mean the visible, functional objects accessory to and part of buildings.

2.02.37 **ARCHITECTURAL CANOPY SIGN** (see Sign, architectural canopy)

2.02.38 **ARCHITECTURAL CHARACTER** (see Architectural Concept)

2.02.39 **ARCHITECTURAL CONCEPT** shall mean the basic aesthetic idea of a building, or group of buildings or structures, including the site and landscape development.

2.02.40 **ARCHITECTURAL FEATURE** shall mean a prominent or significant part or element of a building, structure, or site. Architectural features may include special lines, massing, and/or texture.

2.02.44.01 **LINES** shall mean visual elements of the building, either within the façade or on the building edge, which are in a linear form either horizontally or vertically and may be composed of masonry, glass, or other related materials.

2.02.44.02 **MASS** shall pertain to the volume or bulk of a building or structure.

2.02.44.03 **TEXTURE** shall mean the quality of a surface, ranging from mirror finish, smooth, to coarse and unfinished.

2.02.41 **ARCHITECTURAL STYLE** shall mean the characteristic form and detail, as of buildings of a particular historic period.

2.02.42 **ART GALLERY** shall mean an establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art. This clarification does not include libraries, museums, or non-commercial art galleries.

2.02.43 **ATTACHED** shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from a permanent foundation or structural change in such structure in order to relocate it to another site.

2.02.44 **AUCTION SALES** shall mean a building or structure or lands used for the storage of goods, materials or livestock which are to be sold on the premises by public auction and for the sale of the said goods, materials or livestock by public auction and on an occasional basis. Auction sales also includes motor vehicle wholesale sales, including trailers, trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. (Ordinance No. 891, 2-04-03)

2.02.45 **AUTOMATED TELLER MACHINE (ATM)** shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.

2.02.46 **AUTOMOBILE SALES** shall mean the storage and display for sale or lease of more than two motor vehicles or any type of trailer (provided the trailer is unoccupied) at any one time and/or a total of ten or more sold or leased during the course of a calendar year, and where repair or body work is incidental to the operation of the new or used vehicle sales or leasing. Automobile sales includes all motor vehicle retail sales and leases including trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. (Also, see Auction Sales) (Ordinance No. 891, 2-04-03)

2.02.47 **AUTOMOTIVE REPAIR SERVICES** shall refer to any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work; oil change and lubrication; major painting services; collision services; and tire service and sales. (Ordinance No. 1053, 1-15-08)

2.02.48 **AUTOMOTIVE SERVICES** shall refer to any building, structure, improvements or land used for the general maintenance of automobiles, motorcycles, trucks, trailers or similar vehicles including but not limited to washing, cleaning, and/or detailing; installation of car stereos, accessories, or other light equipment; and minor painting. (Ordinance No. 1053, 1-15-08)

2.02.49 **BAKERY SHOP** shall mean an establishment primarily engaged in the retail sale of baked products. The products may be prepared either on or off site. A bakery shall be considered a general retail use.

2.02.50 **BANK** shall mean a freestanding building or secondary use within a building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

2.02.51 **BASEMENT** shall mean a building space partly underground, and having at least one-half (1/2) of its height, measuring from its floor to its ceiling, above the average adjoining finished ground grade line.

2.02.52 **BEACON** shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

2.02.53 **BEAUTY SHOP** shall mean any establishment where cosmetology services are provided including hair care, nail care, and skin care on a regular basis for compensation.

2.02.54 **BED and BREAKFAST** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator shall live on the premises.

2.02.55 **BEDROOM** shall mean a room within a dwelling unit planned and intended for sleeping, *separated* from other rooms by a door.

2.02.56 **BERM** shall mean a raised form of earth to provide screening or to improve the aesthetic character.

2.02.57 **BILLBOARD** (see Sign, Billboard)

2.02.58 **BLOCK** shall mean a parcel of land platted into lots and bounded by public streets or by waterways, rights-of-way, unplatte land, City-County boundaries, or adjoining property lines.

2.02.59 **BOARD OF ADJUSTMENT** shall mean that board that has been created by the city and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.

2.02.60 **BOARDING HOUSE** shall mean a building containing a single dwelling unit and provisions for not more than five (5) guests, where lodging is provided with or without meals for compensation. (Also, see *Bed and Breakfast*)

2.02.61 **BOOK STORE** shall mean a retail establishment that, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software, or any other printed or electronically conveyed information or media, excluding any uses defined as "adult entertainment establishments".

2.02.62 **BOWLING CENTER** shall mean an establishment that devotes more than 50 percent of its gross floor area to bowling lanes, equipment, and playing area. Accessory uses such as the retail sale of snacks, the retail sale of beverages, and a video game arcade are customary.

2.02.63 **BREW-ON PREMISES STORE** shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sale of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.

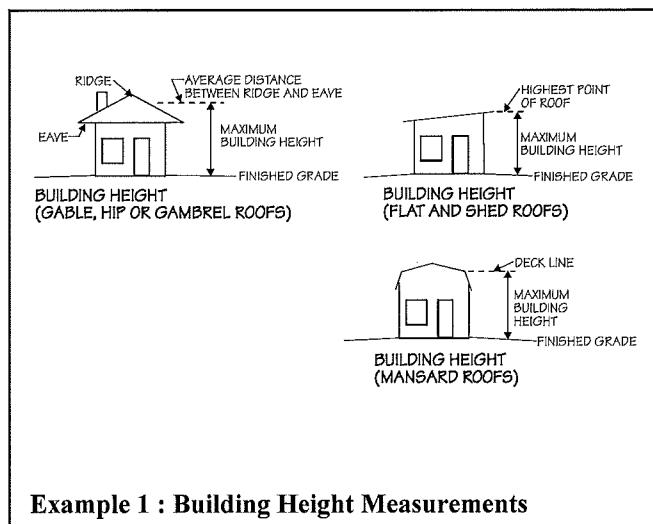
2.02.64 **BREW PUB** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging, shall not exceed twenty-five (25) percent of the total floor area of the commercial space.

2.02.65 **BUFFER** shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. (Also, see Screening)

2.02.66 **BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Trailers, with or without wheels, shall not be considered as buildings.

2.02.67 **BUILDING, ACCESSORY** shall mean any detached subordinate building which serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.

2.02.68 **BUILDING CODE** shall mean the various codes of the City that regulate construction and requires building permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work regulated by the Uniform Building Code,



Example 1 : Building Height Measurements

and other codes adopted by the City that pertain to building construction.

2.02.69 **BUILDING, HEIGHT** shall mean the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance at the exterior wall of the building. (Also, see Height)

2.02.70 **BUILDING INSPECTOR** shall mean the *Chief Building Official* of the City of La Vista, Nebraska.

2.02.71 **BUILDING SETBACK LINE** shall mean the minimum of distance as prescribed by this regulation between any property line and the closest point of the building line or face of any building or structure related thereto.

2.02.72 **BUSINESS OR TRADE SCHOOL** (*see Special or Vocational Training Facilities*)

2.02.73 **BUSINESS SERVICES** shall mean establishments primarily engaged in rendering services to business establishments on a contract or fee basis, such as advertising, credit reporting, collection of claims, mailing, reproduction, stenographic, news syndicates, computer programming, photocopying, duplicating, data processing, services to buildings, and help supply services. (*See also Standard Industrial Classification (SIC) Major Group 73, published by the U.S. Department of Labor.*) (*Ordinance No. 1053, 1-15-08*)

2.02.74 **CAMPGROUND** shall mean a parcel of land intended for the temporary occupancy of tents, campers, and recreational vehicles and which primary purpose is recreational, having open areas that are natural in character.

2.02.75 **CAR WASH** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles, not including semi-trailer tractors, buses, and commercial fleets.

2.02.76 **CARPORT** shall mean a permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage.

2.02.77 **CELLAR** shall mean a building space having more than one-half (1/2) of its height below the average adjoining grade lines.

2.02.78 **CEMETERY** shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.

2.02.79 **CHANGEABLE COPY** shall refer to a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.

2.02.80 **CHANNEL** shall mean the geographical area within either the natural or artificial banks of a watercourse or drainway.

2.02.81 **CHARITABLE ORGANIZATION or CLUB** shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.

2.02.82 **CHILD CARE CENTER** shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for thirteen (13) or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

2.02.83 **CHILD CARE HOME** shall mean an operation in the provider's place of residence which serves at least four (4), but not more than eight (8) children at any one time, from families other than that of the provider. A Family Child Care Home I provider may be approved to serve no more than two (2) additional school-age children

during non-school hours. A Family Child Care Home II operation may be either in the provider's own place of residence or a site other than the residence, serving twelve (12) or fewer children at any one time. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.

2.02.84 **CITY** shall mean the City of La Vista.

2.02.85 **CODE** shall mean the Municipal Code of the City of La Vista.

2.02.86 **COFFEE KIOSK** shall mean a retail food business in a freestanding building that sells coffee, or other beverages, and remade bakery goods from a drive-through window *or walk-up window*. (*Ordinance No. 1053, 1-15-08*).

2.02.87 **COMMISSION** shall mean the La Vista Planning Commission.

2.02.88 **COMMERCIAL MESSAGE** shall mean any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

2.02.89 **COMMON AREA OR PROPERTY** shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners of the individual building sites in a Planned Development or condominium development.

2.02.90 **COMMUNICATION SERVICES** shall mean establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services or wireless communication towers. Typical uses include television studios, communication service centers, internet service offices, or film and sound recording facilities.

2.02.91 **COMPATIBILITY** shall mean harmony in the appearance of two or more external design features in the same vicinity.

2.02.92 **COMPATIBLE USES** shall mean a land use which is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.

2.02.93 **COMPREHENSIVE PLAN** shall mean the Comprehensive Plan of La Vista, Nebraska as adopted by the City Council, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in Section 19-903, R.R.S. 1943, as the same may, from time-to-time, be amended.

2.02.94 **CONDITIONAL USE** shall mean a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

2.02.95 **CONDITIONAL USE PERMIT** shall mean a permit issued by the Planning Commission and City Council that authorizes the recipient to make conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon, or required by said permit.

2.02.96 **CONDOMINIUM** shall be as defined in the Nebraska State Statutes Section 76-824 - 76-894, the Condominium Law, whereby four or more apartments are separately offered for sale.

2.02.97 **CONGREGATE HOUSING** shall mean a residential facility for four or more persons fifty-five (55) years or over, their spouses, or surviving spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room or unit in the residential facility. (Also see Housing for the elderly)

2.02.98 **CONSERVATION** shall mean the protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings or natural resources.

2.02.99 **CONSERVATION AREA** shall mean environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.

2.02.100 **CONSERVATION EASEMENT** shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.

2.02.101 **CONSTRUCTION** shall mean on-site erection, fabrication, installation, alteration, demolition, or removal of any structure, facility, or addition thereto, including all related activities, but not restricted to, clearing of land, earth moving, blasting and landscaping.

2.02.102 **CONTIGUOUS** shall mean the same as "Abut".

2.02.103 **CONVENIENCE STORE** shall mean a one-story, retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. *Fuel sales shall be limited to automobiles, pick-up trucks, boats, recreational vehicles, motorcycles, and small motorized equipment.*

2.02.104 **DENSITY** shall mean the number of dwelling units per gross acre of land.

2.02.105 **DEVELOPER** shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.

2.02.106 **DEVELOPMENT** shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required. *Also, shall mean any material change in the use or appearance of any structure or in the land itself; the division of land into separate lots; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any activity that alters a river, stream, lake, pond, woodland, wetland, endangered species habitat, aquifer or other resource area.*

2.02.107 **DOG KENNEL** (See Kennel)

2.02.108 **DOWNZONING** shall mean a change in zoning classification of land to a less intensive or more restrictive district such as from commercial district to residential district or from a multiple family residential district to single family residential district.

2.02.109 **DRAINAGE** shall mean the removal of surface water or groundwater from land by drains, grading, or other means that include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply, and the prevention or alleviation of flooding.

2.02.110 **DRIVEWAY** shall mean any vehicular access to an off-street parking or loading facility.

2.02.111 **DUPLEX** shall mean the same as "Dwelling, Two (2) Family".

2.02.112 **DWELLING** Any building or portion thereof which is designed and used exclusively for single family residential purposes, excluding mobile homes.

2.02.113 **MANUFACTURED HOME** A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and

which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.

2.02.114 **DWELLING, MOBILE HOME** Any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or rollers, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

- 2.02.114.01 Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.
- 2.02.114.02 Permanent Foundation: Base on which building rests to be constructed from either poured concrete or laid masonry block or brick placed on a footing located below ground level to a point below the frost line.

2.02.115 **DWELLING, MULTIPLE FAMILY** shall mean a building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.

2.02.116 **DWELLING, SINGLE FAMILY** a building having accommodations for or occupied exclusively by one family which meet all the following standards:

- 2.02.116.01 The home shall have no less than nine hundred (900) square feet of floor area, above grade, for single story construction;
- 2.02.116.02 The home shall have no less than an eighteen (18) foot exterior width;
- 2.02.116.03 The roof shall be pitched with a minimum vertical rise of two and one-half (2 1/2) inches for each twelve (12) inches of horizontal run;
- 2.02.116.04 The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction;
- 2.02.116.05 The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock;
- 2.02.116.06 The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed;
- 2.02.116.07 The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district; and
- 2.02.116.08 Permanent foundation: continuous perimeter base on which building rests to be constructed from either poured concrete or laid masonry block or *placed on a footing located below ground level to a point below the frost line*.

2.02.116 **DWELLING, TWO (2) FAMILY** shall mean a building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family.

2.02.117 **DWELLING UNIT** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.

2.02.118 **EASEMENT** shall mean a space or a lot or parcel of land reserved for or used for public utilities or public or private uses.

2.02.119 **EDUCATIONAL FACILITY** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, commercial, or private trade schools are not included in this definition.

2.02.120 **EFFECTIVE DATE** shall mean the date that this Ordinance shall have been adopted, amended, or the date land areas became subject to the regulations contained in this Ordinance as a result of such adoption or amendment.

2.02.121 **ENCROACHMENT** shall mean an advancement or intrusion beyond the lines or limits as designated and established by the Regulation, and to infringe or trespass into or upon the possession or right of others without permission.

2.02.122 **ENLARGEMENT** shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.

2.02.123 **ERECTED** shall mean constructed upon or moved onto a site.

2.02.124 **EVENT CENTER** shall mean all buildings and associated parking facilities which are kept, used, maintained, advertised, held out, leased out, or otherwise made available to private groups and/or the general public for such purposes as meetings, civic, educational, political, religious or social purpose such as receptions, dances, entertainment, secondhand merchandise sales and the like, and may include a banquet hall, private club or fraternal organization, but not including uses defined in Adult Establishment. *(Ordinance No. 955, 7-19-05)*

2.02.125 **EXERCISE, FITNESS and TANNING SPA** shall mean an establishment that provides exercise facilities for the purposes of running, jogging, aerobics, weight lifting, court sports, and/or swimming, as well as locker rooms, showers, massage rooms, tanning beds, hot tubs, saunas or other related accessory uses; however, excluding any uses defined as "adult entertainment establishments".

2.02.126 **EXTERNAL DESIGN FEATURE** shall mean the general arrangement of any portion of a building, sign, landscaping, or structure and including the kind, color, and texture of the materials of such portion, and the types of roof, windows, doors, lights, attached or ground signs, or other fixtures appurtenant to such portions as will be open to public view from any street, place, or way.

2.02.127 **EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits, in which the City has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers.

2.02.128 **FACADE** shall mean the exterior wall of a building exposed to public view from the building's exterior.

2.02.129 **FACTORY** shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.

2.02.130 **FAMILY** shall mean a person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities: (1) any number of people related by blood, marriage, adoption, guardianship, or duly-authorized custodial relationship; (2) up to four unrelated people and any related children; and (3) a group care home.

Family does not include any society, club, fraternity, sorority, association, lodge, organization, group of students, or other individuals where the common living arrangement is temporary or seasonal. Also, the term does not include any group of individuals who are in a group living arrangement as a result of criminal offenses.

2.02.131 **FARM** an area containing at least twenty (20) acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain; storing of such products; and/or raising farm animals. The term farming includes the operating of such area for two or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

2.02.132 **FEEDLOT** shall mean a lot, yard, corral or other area in which livestock are confined, primarily for the purpose of feeding and growth prior to slaughter. The term does not include areas which are used for raising crops or other vegetation or upon which livestock are allowed to graze.

2.02.133 **FENCE, OPEN** shall mean a fence, including gates, which has fifty percent (50%) or more of the surface area in open spaces which affords direct views through the fence.

2.02.134 **FENCE, SEASONAL** shall mean a temporary fence constructed of plastic or wood lathe erected and maintained from October through April to prevent snow drifting. (Ordinance No. 871, 10-15-02)

2.02.135 **FENCE, SOLID** shall mean any fence which does not qualify as an open fence.

2.02.136 **FESTIVAL** shall mean the sale of ethnic specialty, regional, and gourmet foods, art and crafts, live musical entertainment, in an outdoor setting.

2.02.137 **FLOOD** (see Section 5.18.25 of this Ordinance)

2.02.138 **FLOOD PLAIN** (see Section 5.18.25 of this Ordinance)

2.02.139 **FLOODWAY** (see Section 5.18.25 of this Ordinance)

2.02.140 **FLOOR AREA** whenever the term "floor area" is used in this Regulation as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.

2.02.141 **FOOD SALES** shall mean establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

2.02.141.01 **FOOD SALES (LIMITED)** shall mean food sales establishments occupying 10,000 square feet or less of space.

2.02.141.02 **FOOD SALES (GENERAL)** shall mean food sales establishments occupying more than 10,000 square feet of space. Typically a supermarket.

2.02.142 **FRONTAGE** shall mean that portion of a parcel of property which abuts a dedicated public street or highway.

2.02.143 **GARAGE** shall mean a detached accessory building or *an attached portion of a dwelling* for the housing of vehicles, including carports.

2.02.144 **GRADE** shall mean the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

2.02.145 **GREENHOUSE** shall mean a building or premises used for growing plants, preparation of floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.

2.02.146 **GROUND COVER** shall mean plant material used in landscaping which remains less than twelve (12) inches in height at maturity. (Also, see Landscaping)

2.02.147 **GROUP CARE HOME** shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four (24) hour care for individuals in a residential setting. *This term does not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals where the common living arrangement is temporary or seasonal. Also, the term does not include any group of individuals who are in a group living arrangement as a result of criminal offenses.*

2.02.148 **GUNSMITH** shall mean a shop that designs, makes or repairs small firearms.

2.02.149 **GUEST ROOM** shall mean a room which is designed to be occupied by one (1) or more guest for sleeping purposes, having no kitchen facilities, not including dormitories.

2.02.150 **HARD SURFACED** shall mean any surface used for movement of vehicular and / or pedestrians which is properly designed with permeable pavement, bricks, interlocking concrete pavers, asphalt or concrete.

2.02.151 **HARMONY** shall mean a quality that represents an appropriate and congruent arrangement of parts, as in an arrangement of varied architectural and landscape elements.

2.02.152 **HAZARDOUS WASTE / MATERIALS** shall mean waste products of industrial or chemical process including finished surplus, used, contaminated or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.

2.02.153 **HEALTH CLUB** shall mean privately owned for profit facilities such as gymnasiums, athletic clubs, recreational clubs, reducing salons, and weight control establishments.

2.02.154 **HEDGE** shall mean a plant or series of plants, shrubs or other landscape material, so arranged as to form a physical barrier or enclosure.

2.02.155 **HOME OCCUPATION** shall mean an “in-home” or “home based” or entrepreneurial business, *industry, service or other concern (not including uses defined as Adult Establishment)* operating from a residential dwelling within La Vista, *or within an accessory structure on the same property*. Home occupations are considered *secondary in nature to the primary use of the structure and/or property* in all *residential zoning districts*. *Occupations defined as Home Occupation II are exempt from a conditional use permit. All home occupations (I and II) are required to have a Home Occupation License. (Ordinance No. 879, 11-19-02)*

2.02.155.01 ***Home Occupation I:*** shall include art/craft making, seamstress services, professional offices (real estate/insurance/medical), multi-level marketing, vending services, service businesses (contracting/janitorial/mechanical), instruction (music), consulting, wholesale/catalogue sales, personal service (Beauty/barber/massage/tattoo), shops, renting of rooms for residential purposes, *and other similar uses. (Ordinance No. 879, 11-19-02)*

2.02.155.02 ***Home Occupation II:*** shall include occupations in which a home phone, computer, etc. are used in deriving income or sales. This includes business offices for services such as construction, repair and cosmetic services/sales rendered at other locations, internet business, and other similar uses. *(Ordinance No. 879, 11-19-02)*

2.02.156 **HOME OCCUPATION LICENSE** shall mean a license provided to the owner/operator of a home occupation. Such license shall include (but not limited to) the following: *(Ordinance No. 879, 11-19-02)*

2.02.156.01 Application fee in accordance with Master Fee Schedule. *(Ordinance No. 879, 11-19-02)*

2.02.156.02 A minimum of seventy-five percent (75%) of the households within two hundred feet (200') of the proposed home occupation shall indicate no objections, in writing, to the operation of such home occupation. A “no objections” signature form shall be provided by the City and said residents shall sign next to their respective address. *(Ordinance No. 879, 11-19-02)*

2.02.156.03 Minimum standards for home occupations as provided in Section 7.10 of the Supplemental Regulations. *(Ordinance No. 879, 11-19-02)*

2.02.156.04 Conditional use permit, except for Home Occupation II uses and child care homes. *(Ordinance No. 879, 11-19-02)*

2.02.157 **HOME OCCUPATION PERMIT** (see Home Occupation License) *(Ordinance No. 879, 11-19-02)*

2.02.158 **HOME OCCUPATION TAX** (see Home Occupation License) *(Ordinance No. 879, 11-19-02)*

2.02.159 **HOSPITAL, ANIMAL** shall mean a place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use. *(Ordinance No. 871, 10-15-02)*

2.02.160 **HOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities.

2.02.161 **HOUSE TRAILER** (see Dwelling, Mobile Home)

2.02.162 **HOUSEHOLD PET** shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.

2.02.163 **INCIDENTAL** shall mean a use, which is subordinate to the main use of a premise.

2.02.164 **INDOOR RECREATIONAL FACILITY** shall refer to use of a facility for purposes of recreation. The use shall be completely enclosed within a building with the exception of retractable roofs. Examples include, but are not limited to sports courts, gymnastics, kart racing, batting cages, practice fields, and miniature golf.

2.02.165 **INDUSTRY** shall mean the manufacture, fabrication, processing reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

2.02.166 **INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which may or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle which is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.

2.02.167 **INTENSITY** shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.

2.02.168 **INTENT AND PURPOSE** shall mean that the Commission and Council by the adoption of this Ordinance have made a finding that the health, safety, and welfare of the community will be served by the creation of the zoning districts and by the regulations prescribed therein.

2.02.169 **JUICE BAR** (See Adult Establishment)

2.02.170 **JUNK** shall be any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.

2.02.171 **KENNEL** shall mean an establishment where three (3) or more dogs, cats, or other household pets, or non-farm/non-domestic or any combination of five (5) or more thereof, at least four (4) months of age are boarded as a business.

2.02.172 **LABORATORY** shall mean a facility used for testing and analyzing medical and dental samples from off-site locations. Testing laboratories shall refer to soil and geotechnical research and analysis. Laboratories do not include human or animal research / testing facilities.

2.02.173 **LANDSCAPE** shall mean plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.

2.02.174 **LANDSCAPING** shall include the original planting of suitable vegetation in conformity with the requirements of this Regulation and the continued maintenance thereof.

2.02.175 **LAUNDRY SERVICE** shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.

2.02.176 **LOADING AREA** shall mean an off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.

2.02.177 **LOGIC OF DESIGN** shall mean accepted principles and criteria of validity in the solution of the problem of design.

2.02.178 **LOT** shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Register of Deeds and abutting at least one (1) public street or right-of-way, two (2) easements *with dedicated public access*, or one (1) private road.

2.02.179 **LOT AREA** shall mean the total area, on a horizontal plane, within the lot lines of a lot.

2.02.180 **LOT, CORNER** shall mean a lot located at the intersection of two (2) or more streets at an angle of not more than one hundred thirty-five (135) degrees. If the angle is greater than one hundred thirty-five (135) degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets.

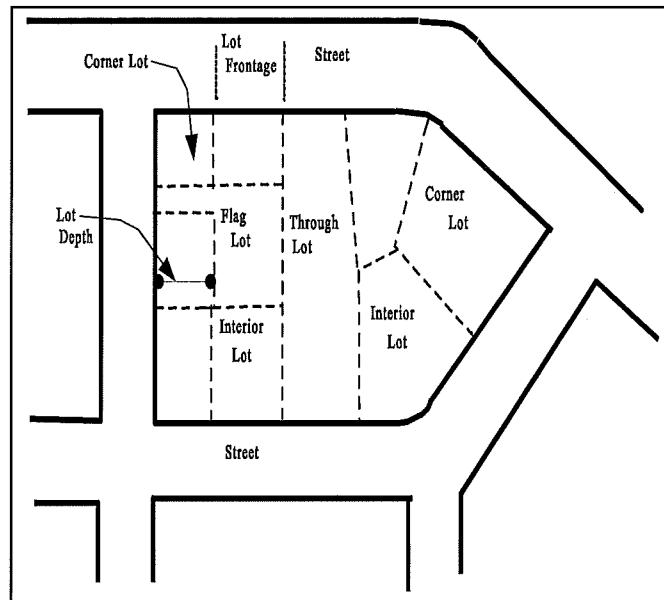
2.02.181 **LOT COVERAGE** shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.

2.02.182 **LOT DEPTH** shall mean the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

2.02.183 **LOT, DOUBLE FRONTAGE** shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.

2.02.184 **LOT, FRONTAGE** shall mean the side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.

2.02.185 **LOT, INTERIOR** shall mean a lot other than a corner lot.



2.02.186 **LOT LINE** shall mean the property line bounding a lot.

2.02.187 **LOT LINE, FRONT** shall mean the property line abutting a street.

2.02.188 **LOT LINE, REAR** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.

2.02.189 **LOT LINE, SIDE** shall mean any lot line *that is* not a front lot line or rear lot line.

2.02.190 **LOT, THROUGH** shall mean a lot having frontage on two (2) dedicated streets, not including a corner lot.

2.02.191 **LOT OF RECORD** shall mean a lot held in separate ownership as shown on the records of the County Register of Deeds at the time of the passage of a regulation or regulations establishing the zoning district in which the lot is located.

2.02.192 **LOT WIDTH** shall mean the average horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

2.02.193 **MAIL ORDER SERVICES** shall mean an establishment primarily engaged in the retail sale of products by television, telemarketing, internet, catalog, and mail order. Such a use may include warehousing, shipping, and receiving of merchandise intended for retail sale.

2.02.194 **MANUFACTURED HOME PARK** shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. The term "manufactured home park" does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.

2.02.195 **MANUFACTURED HOME SUBDIVISION** shall mean any area, piece, parcel, tract or plot of ground subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.

2.02.196 **MANUFACTURING** shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

2.02.197 **MANUFACTURING, LIGHT** shall mean an establishment engaged in the indoor manufacturing, assembly, fabrication, packaging or other industrial processing of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services, where there are few external effects across property lines. This term includes but is not limited to a business engaged in the processing, fabrication, assembly, treatment, or packaging of food, textile, leather, wood, paper, chemical, plastic, or metal products, but does not include basic industrial processing from raw materials. (*Ordinance No. 1053, 1-15-08*)

2.02.198 **MAP, OFFICIAL ZONING DISTRICT** shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the La Vista City Council.

2.02.199 **MASTER FEE SCHEDULE** shall mean a fee schedule maintained by the City of La Vista and passed, and amended periodically, which establishes the required fees to be collected for specific Planning, Zoning, Subdivision, and Building Inspection activities.

2.02.200 **MECHANICAL EQUIPMENT** shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

2.02.201 **MEDICAL / DENTAL OFFICES / CLINICS** shall mean a building or portion of a building containing offices and facilities for providing medical, dental, and psychiatric services for outpatients only.

2.02.202 **MEETING HALL** shall mean a building designed for public assembly.

2.02.203 **MICROBREWERY** (*see Brew Pub*)

2.02.204 **MINI-STORAGE OR MINI-WAREHOUSE** (*See Self-Service Storage Facility*)

2.02.205 **MISCELLANEOUS REPAIR SERVICES** shall include electrical repair shops; watch, clock and jewelry repair shops; and re-upholstery and furniture repair. (*See also Standard Industrial Classification (SIC) Major Group 76, published by the U.S. Department of Labor*) (*Ordinance No. 1053, 1-15-08*)

2.02.206 **MISCELLANEOUS STRUCTURES** shall mean structures, other than buildings, visible from public ways. Examples are: memorials, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, transformers, drive-up facilities.

2.02.207 **MIXED USE** shall mean properties where various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.

2.02.208 **MOBILE HOME** (See Dwelling, Mobile Home)

2.02.209 **MOBILE HOME PARK** (See Manufactured Home Park)

2.02.210 **MOBILE HOME SUBDIVISION** (See Manufactured Home Subdivision)

2.02.211 **MORTUARY** shall mean an establishment in which the deceased are prepared for burial or cremation. The facility may include funeral services and spaces for informal gatherings or display of funeral equipment. This classification excludes cemeteries.

2.02.212 **MOTEL** (See Hotel)

2.02.213 **MOTOR VEHICLE** shall mean every self-propelled vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs. (*Ordinance No. 891, 2-04-03*)

2.02.214 **NEWSSTAND** shall mean a temporary structure manned by a vendor, whom sells newspapers, magazines and other periodicals.

2.02.215 **NON-CONFORMING STRUCTURE** shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.

2.02.216 **NON-CONFORMING USE** shall mean a use lawful when established but which does not conform to subsequently established zoning or zoning regulations.

2.02.217 **NUISANCE** shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.

2.02.218 **NURSERY** shall mean the use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.

2.02.219 **OFFICE** shall mean a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.

2.02.220 **OFFICE PARK** shall mean a development which contains two or more separate office buildings, accessory and supporting uses, and open space all designed, planned, constructed, and maintained on a coordinated basis.

2.02.221 **PARKING AREA or VEHICULAR USE AREA** shall refer to all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.

2.02.222 **OPEN SPACE** shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.

2.02.223 **OPEN SPACE, COMMON** shall mean a separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Rights-of-way, private streets, driveways, parking lots or other surfaces designed or intended for vehicular use or required yards shall not be included as common open space.

2.02.224 **OUTLOT** shall mean a lot remnant or parcel of land left over after platting, which is intended as open space or other use, for which no building permit shall be issued on any private structures.

2.02.225 **OUTDOOR STORAGE** shall mean the storage of any material for a period greater than 72 hours not in an enclosed building, including items for sale, lease, processing, and repair (including motor vehicles).

2.02.226 **OVERLAY DISTRICT** shall mean a district in which additional requirements act in conjunction with the underlying zoning district. The *underlying* zoning district designation does not change.

2.02.227 **OWNER** shall mean one (1) or more persons, including corporations, who have title to the property, building or structure in question.

2.02.228 **PARCEL** shall mean a lot or a contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.

2.02.229 **PARK** shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.

2.02.230 **PARKING SPACE** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine (9) feet *wide* by eighteen (18) feet *long*, plus such additional area as is necessary to afford adequate ingress and egress.

2.02.231 **PERMANENT FOUNDATION** shall mean a base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.

2.02.232 **PERMANENTLY ATTACHED** shall mean connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.

2.02.233 **PERMITTED USE** shall mean any land use allowed without condition within a zoning district.

2.02.234 **PERSON** shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, City, County, special district or any other group or combination acting as an entity, except that it shall not include La Vista, Nebraska.

2.02.235 **PET HEALTH SERVICE** (see Hospital, Animal) (Ordinance No. 871, 10-15-02)

2.02.236 **PET SHOP** shall mean a retail establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals such as horses, cattle, goats, sheep and poultry.

2.02.237 **PINBALL or VIDEO GAMES BUSINESS** (See Amusement Arcade)

2.02.238 **PLANNED UNIT DEVELOPMENT** shall mean a development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan. (Ordinance No. 891, 2-04-03)

2.02.239 **PLANNING COMMISSION** shall mean the Planning Commission of La Vista, Nebraska.

2.02.240 **PLANT MATERIALS** shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs.

2.02.241 **PLAT** shall mean a map showing the location, boundaries, and legal description of individual properties.

2.02.242 **POSTAL STATION** shall mean a commercial business which conducts the retail sale of stationery products, provides packaging and mail services (both U.S. Postal and private service), and provides mailboxes for lease.

2.02.243 **Premises** shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract (See also, *Parcel*)

2.02.244 **PRESCHOOL** shall mean a school or center for children under school age, whether licensed as a day care center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards

2.02.245 **PRINCIPAL BUILDING** shall mean a building within which the main or primary use of the lot or premises is located. (See also Use, Principal)

2.02.246 **PUBLIC FACILITIES** shall mean any building held, used, or controlled exclusively for public purposes by any department or branch of federal, state, county, or city government. A building belonging to or used by the public for the transaction of public or quasi-public business. Public services may be rendered from such facilities.

2.02.247 **PUBLIC SERVICES** shall mean services provided by a public agency within a government facility for purposes of public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities.

2.02.248 **RECREATIONAL ESTABLISHMENT** (see Recreational Facility) (Ordinance No. 891, 2-04-03)

2.02.249 **RECREATIONAL FACILITY** shall mean public or private facilities for the use of passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.

(Ordinance No. 891, 2-04-03)

2.02.250 **RECREATIONAL VEHICLE (RV)** shall mean a vehicular unit less than forty (40) feet in overall length, eight (8) feet in width, or twelve (12) feet in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.

2.02.251 **RESIDENCE** shall mean a building used, designed, or intended to be used as a home or dwelling place for one (1) or more families.

2.02.252 **RESERVATION CENTER** shall mean a travel agency; or other such agency involved in selling and arranging transportation, tours, trips, and accommodations for tourists.

2.02.253 **RESTAURANT** shall mean a public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.

2.02.254 **RESTAURANT, FAST FOOD** shall mean an establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carryout, drive-thru, or drive-in; and where food and/or beverages are usually served in paper, plastic, or other disposable containers.

2.02.255 **RETAIL TRADE** shall mean uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption.

2.02.256 **REZONING** shall mean an amendment to or change to the *Official Zoning District Map*.

2.02.257 **RIGHT-OF-WAY** shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.

2.02.258 **ROAD, PRIVATE** shall mean a way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties.

2.02.259 **ROAD, PUBLIC** shall mean all public right-of-way reserved or dedicated for *utilities and vehicular and pedestrian* traffic.

2.02.260 **SATELLITE DISH ANTENNA** shall mean a round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves.

2.02.261 **SCREENING** shall mean a structure *or* planting that conceals from view from public ways the area behind such structure or planting.

2.02.262 **SELF-SERVICE STORAGE FACILITY** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.

2.02.263 **SERVICE STATIONS** shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.

2.02.264 **SETBACK, FRONT YARD** shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line *or other access way*.

2.02.265 **SETBACK, REAR YARD OR SIDE YARD** shall mean the line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, *offset* by the perpendicular distance prescribed for the yard in the district.

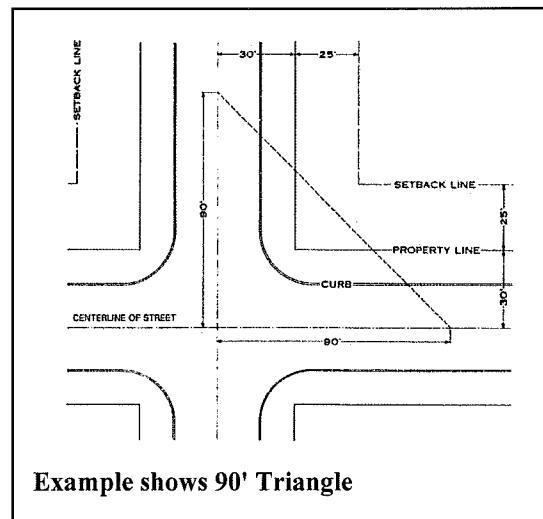
2.02.266 **SHOPPING CENTER** shall mean a group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivery that is separated from customer access, aesthetic considerations, and protection from the elements.

2.02.267 **SHOPPING CENTER, COMMERCIAL STRIP** shall mean a commercial development, usually one store deep, that fronts on a major street for a distance of one city block or more. Includes individual buildings on their own lots, with or without on-site parking and small linear shopping centers with shallow on-site parking in front of the stores.

2.02.268 **SHOPPING CENTER, OUTLET** shall mean a commercial development that consists mostly of manufacturers' outlet stores selling their own brands at a discounted price. This definition includes all forms of centers, such as strip style, enclosed mall style, and village clustered style centers.

2.02.269 **SIGHT TRIANGLE** is 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 two-and-a-half (2 ½) feet and ten (10) feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, sixty (60) feet in each direction along the centerline of the streets. At the intersection of major or *other* arterial streets, the sixty (60) foot distance shall be increased to ninety (90) feet for each arterial leg of the intersection.
(Ordinance No. 891, 2-04-03)

2.02.270 **SIGN** shall mean and include any outdoor display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for



direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest, except the following:

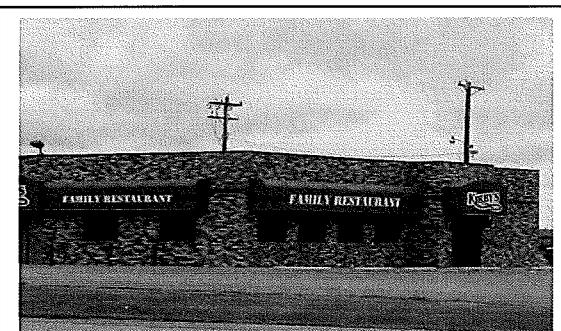
- 2.02.270.01 A name plate or sign designating location, direction, information, or identification, providing the surface area or face of such sign does not exceed ten (10) square feet.
- 2.02.270.02 Signs less than twenty-five (25) square feet in surface area advertising activities conducted on the premise, products grown, made, or produced on the premise.
- 2.02.270.03 Signs less than fifty (50) square feet in area and less than twenty-five (25) feet in height of a public or quasi-public nature or other official notices that are authorized by the State of Nebraska, City of La Vista, or a Federal Government Agency, directional, informational, or other official signs or notices authorized by law.

SIGN, ANIMATED shall mean any sign that uses movement or change of lighting to depict action or create a special effect or scene.

2.02.271 **SIGN AREA** shall refer to that portion of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated.

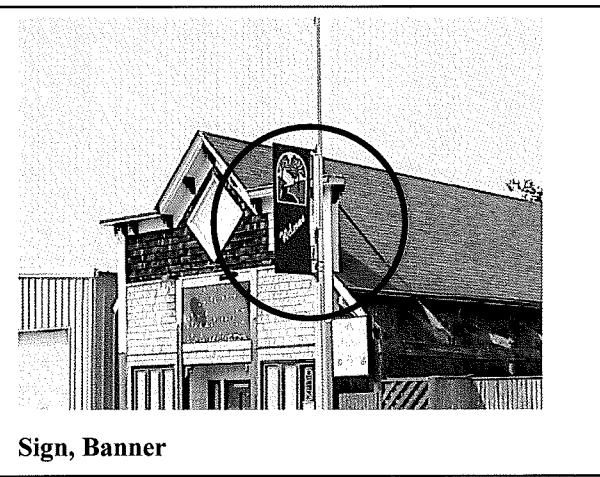
2.02.272 **SIGN, AUDIBLE** shall mean any sign that conveys either a written message supported by an audible noise including music, spoken message, and / or sounds to attract attention to the sign. Audible signs also include signs conveying only the audible noise including music, spoken message, and / or sounds to attract attention.

2.02.273 **SIGN, CANOPY** shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.



Sign, Canopy

2.02.274 **SIGN, BANNER** shall mean any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or official flag of any institution or business shall not be considered banners. Banner signs shall not represent a commercial message.



Sign, Banner

2.02.275 **SIGN, BILLBOARD** shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

2.02.276 **SIGN, BUILDING MARKER** shall mean any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

2.02.277 **SIGN, CENTER IDENTIFICATION** shall mean any sign erected to provide direction to a development including multiple uses and / or structures within the development. Center Identification signs shall include the name of said development and may include the names of major tenants of the development. Center Identification Signs shall typically be similar to Ground (Monument) signs.

2.02.278 **SIGN, CONSTRUCTION** shall mean a temporary sign identifying an architect, engineer, contractor, subcontractor, and/or building material supplier who participates in construction on the property on which the sign is located. (Ordinance No. 871, 10-15-02)

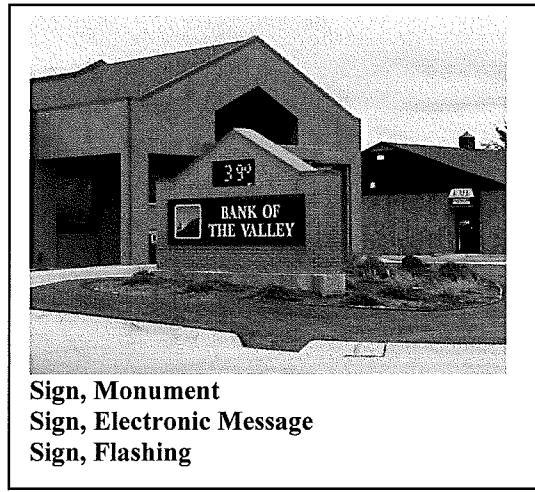
2.02.279 **SIGN, ELECTRONIC MESSAGE BOARD** shall mean a sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

2.02.280 **SIGN, FLASHING** shall mean a sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of being on or off.

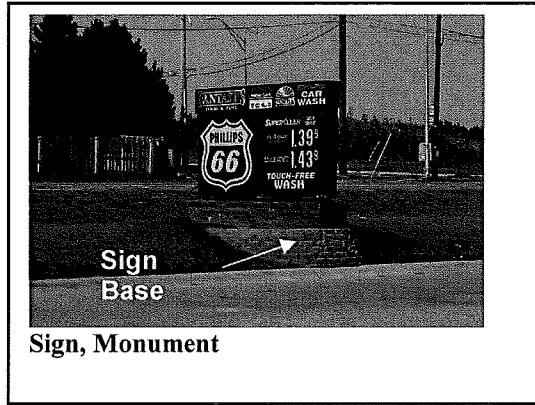
2.02.281 **SIGN, FREESTANDING** shall mean any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.

2.02.282 **SIGN, ILLUMINATED** shall mean a sign illuminated in any manner by an artificial light source.

2.02.283 **SIGN, INCIDENTAL** shall mean a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental. Incidental signs may be attached or painted on the wall, or they may be freestanding signs.



2.02.284 **SIGN, MARQUEE** shall mean any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.



2.02.285 **SIGN, MONUMENT** shall mean a sign mounted directly to the ground with a maximum height not to exceed ten (10) feet.

2.02.286 **SIGN, NAMEPLATE** shall mean a sign not exceeding two (2) square feet for each dwelling.

2.02.287 **SIGN, NONCONFORMING** shall mean any sign that does not conform to the requirements of this ordinance

2.02.288 **SIGN, OFF-PREMISES** shall mean a sign including the supporting sign structure which directs the attention of the general public to a business, service, or activity not usually conducted, or a product not offered or sold, upon the premises where such sign is located.

2.02.289 **SIGN, ON-PREMISE** shall mean a sign, display, or device-advertising activities conducted on the property on which such sign is located.

2.02.290 **SIGN, PENNANT** shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

2.02.291 **SIGN, POLE** shall mean a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six (6) feet or more above grade.

2.02.292 **SIGN, PORTABLE** shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character. Examples are: menu and sandwich board signs, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations (deliveries and transportation of personnel) of the business. This definition also includes any and all sandwich boards supported by human beings or animals.

2.02.293 **SIGN, PROJECTING** shall mean a projecting sign attached to a building in such a manner that its leading edge extends more than eight (8) inches beyond the surface of such building or wall.

2.02.294 **SIGN, REAL ESTATE** shall mean a temporary sign that identifies property or properties that are for sale or lease.

2.02.295 **SIGN, ROOF** shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on *or* over the roof of a building.

2.02.296 **SIGN SETBACK** shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.

2.02.297 **SIGN, SUBDIVISION** shall mean a sign erected on a subdivision which identifies the platted subdivision where the sign is located.

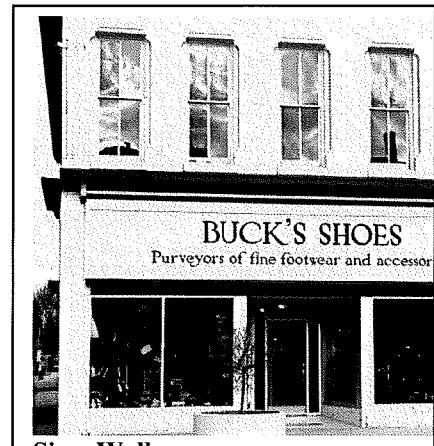
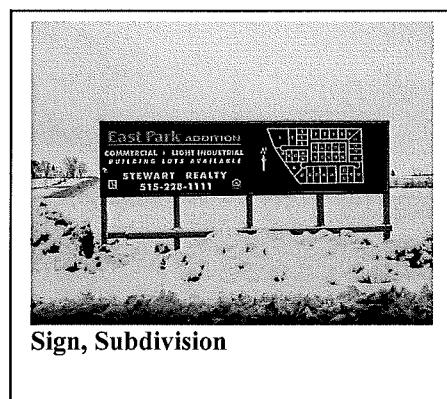
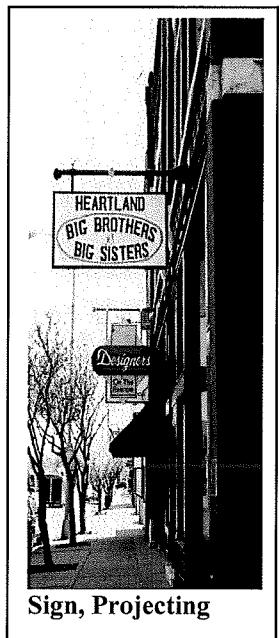
2.02.298 **SIGN SURFACE** shall mean the entire area of a sign.

2.02.299 **SIGN, SUSPENDED** shall mean a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

2.02.300 **SIGN, TEMPORARY** shall mean a sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.

2.02.301 **SIGN, VIDEO** shall mean any on-premises or off-premises sign that conveys either a commercial or non-commercial message, including a business or organization name, through means of a television or other video screen. *This definition shall include electronic message board signs.*

2.02.302 **SIGN, WALL** shall mean any sign attached parallel to, but within eight inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.



2.02.303 **SIGN, WINDOW** shall mean any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

2.02.304 **SIGN BASE** shall mean any decorative, functional element extending upward from grade to the start of the sign.

2.02.305 **SIMILAR USE** shall mean the use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities.

2.02.306 **SITE PLAN** shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.

2.02.307 **SOCIAL CLUB OR FRATERNAL ORGANIZATIONS** shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.

2.02.308 **SOLID WASTE** shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.

2.02.309 **SPECIAL or VOCATIONAL TRAINING FACILITIES** shall mean a specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills such as accounting, data processing, and computer repair. This classification excludes establishments providing training in an activity that is not otherwise permitted in the zone. Incidental instructional services in conjunction with another primary use shall not be included in this definition.

2.02.310 **SPECIFIED ANATOMICAL AREAS** shall mean anatomical areas consisting of:

- 2.02.310.01 Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and,
- 2.02.310.02 Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

2.02.311 **SPECIFIED SEXUAL ACTIVITIES** shall mean activities consisting of the following:

- 2.02.311.01 Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts of conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
- 2.02.311.02 Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
- 2.02.311.03 Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- 2.02.311.04 Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or
- 2.02.311.05 Situation involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint or any such persons; or
- 2.02.311.06 Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
- 2.02.311.07 Human excretion, urination, menstruation, vaginal, or anal irrigation.

2.02.312 **STATE** shall mean the State of Nebraska.

2.02.313 **STORAGE** shall mean the keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than thirty (30) days.

2.02.314 **STORY** shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.

2.02.315 **STREET** shall mean a public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in this Regulation.

2.02.316 **STREET, ARTERIAL** shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a City, City, or county with controlled access to abutting property.

2.02.317 **STREET, COLLECTOR** shall mean a street or high way, which is intended to carry traffic from a minor street to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.

2.02.318 **STREET FRONTRAGE** shall mean the distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

2.02.319 **STREET, LOCAL** shall mean a street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.

2.02.320 **STREET, PRIVATE** shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties.

2.02.321 **STREETSCAPE** shall mean the scene as may be observed along a *right-of-way* composed of natural and man-made components, including buildings, paving, plantings, and *other poles, signs, benches, and other miscellaneous amenities*.

2.02.322 **STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.

2.02.323 **STRUCTURE, TEMPORARY** shall mean a structure permitted as a temporary use.

2.02.324 **STRUCTURAL ALTERATION** shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

2.02.325 **SUBDIVISION** shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future.

2.02.326 **TANNING SPA or SALON** shall mean any business that uses artificial lighting *or other* systems to produce a tan on an individual's body. These facilities may be either a stand-alone business or as an accessory use in spas, gymnasiums, athletic clubs, health clubs, and styling salons. This use is not included with any type of adult establishment.

2.02.327 **TAVERN AND COCKTAIL LOUNGE** (See Bar) shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises.

2.02.328 **TELECOMMUNICATIONS FACILITY** shall mean any facility that transmits and/or receives signals by electromagnetic or optical means, including antennas, microwave dishes, horns, or similar types of equipment, towers or similar structures supporting such equipment, and equipment buildings.

2.02.329 **TELEPHONE EXCHANGE** shall mean a building used exclusively for the transmission and exchange of telephone messages, but the term shall not include wireless communication towers.

2.02.330 **TEMPORARY USE** shall mean a use intended for limited duration, *not to exceed six (6) months*, to be located in a zoning district not permitting such use.

2.02.331 **THEATER** shall mean a building or structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and no audience participation or meal service.

2.02.332 **TOWER** shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. (Also, see Antenna)

2.02.333 **TOWNHOUSE** shall mean a one-family dwelling unit, with a private entrance, which *is* part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.

2.02.334 **TRANSPORTATION SERVICES** shall mean establishments providing services incidental to transportation, such as forwarding, packing, crating, or other means of preparing goods for shipping. (See also Standard Industrial Classification (SIC) Industry Group 473 and description 4783, published by the U.S. Department of Labor.) (Ordinance No. 1053, 1-15-08)

2.02.335 **USE, PRINCIPAL** shall mean the main use of land or structure, as distinguished from an accessory use. (Also, see Principal Building)

2.02.336 **UTILITARIAN STRUCTURE** shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.

2.02.337 **UTILITY HARDWARE** shall mean devices such as poles, crossarms, transformers and vaults, gas pressure regulating assemblies, hydrants, and buffalo boxes that are used for water, gas, oil, sewer, and electrical services to a building or a project.

2.02.338 **UTILITY SERVICE** shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil and communications into a building or development.

2.02.339 **VARIANCE** shall mean a relief *granted by the Board of Adjustment* from or variation of the provisions of this Ordinance, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.

2.02.340 **VETERINARY SERVICES** shall mean a building or part of a building used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention. Such clinics may or may not also provide long-term lodging for ill or unwanted animals, or lodging for healthy animals on a fee basis. Such clinics may or may not also provide general grooming practices for such animals. (Ordinance No. 871, 10-15-02)

2.02.341 **WAREHOUSE** shall mean a building used primarily for the storage of goods and materials.

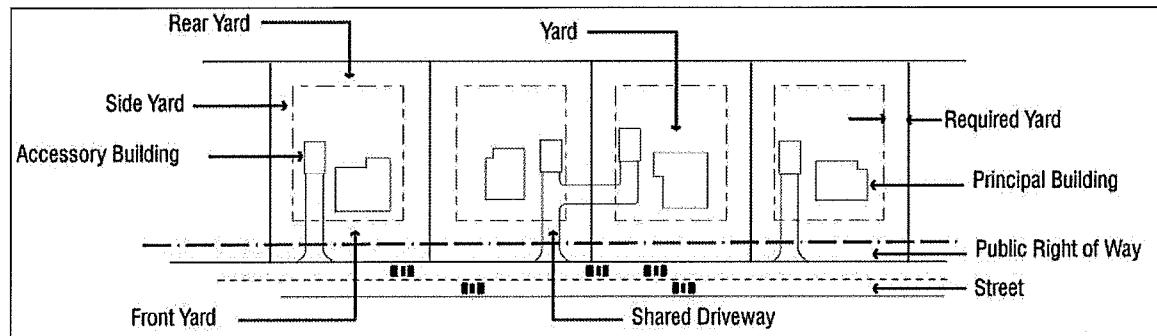
2.02.342 **WHOLESALE TRADE** shall mean a use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: Merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.

2.02.343 **WIND ENERGY SYSTEM or WIND ENERGY CONVERSION SYSTEM (WECS)** shall mean a wind-driven machine that converts wind energy into electrical power for the primary purpose of on-site use or resale for off-site use.

2.02.344 **WIRELESS COMMUNICATIONS TOWER** shall mean a structure designed and constructed to support one or more antennas used by commercial wireless telecommunication facilities and including all appurtenant devices

attached to it. A tower can be freestanding (solely self-supported by attachment to the ground) or supported (attached directly to the ground and with guy wires), of either lattice or monopole construction.

2.02.345 **YARD** shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation.

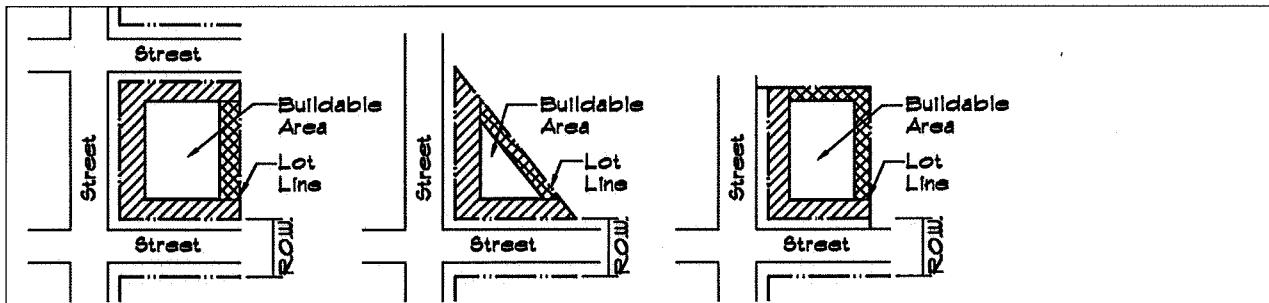


2.02.346 **YARD, FRONT** shall mean a space between the front yard setback line and the front lot line or *right-of-way line*, and extending the full width of the lot.

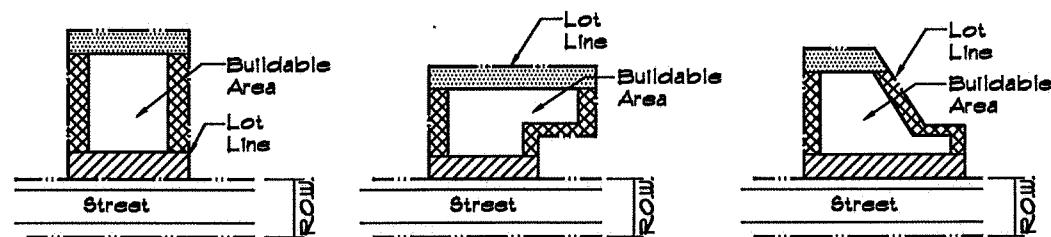
2.02.347 **YARD, REAR** shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.

2.02.348 **YARD, SIDE** shall mean a space extending from the front yard or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

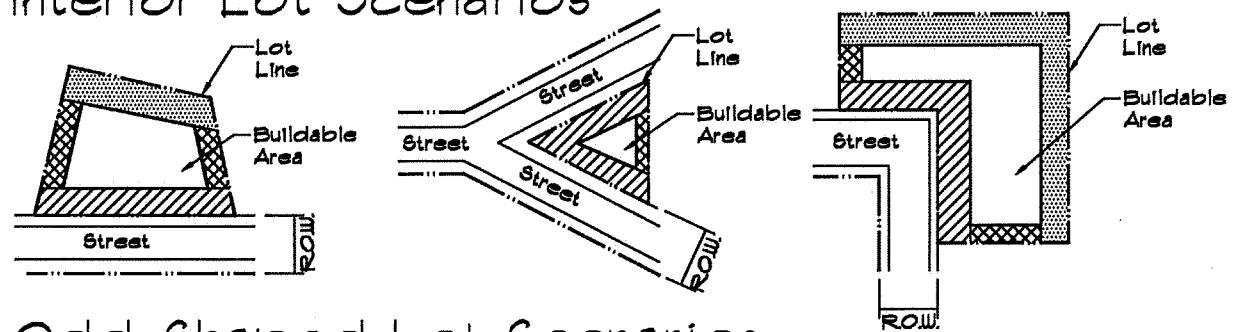
2.02.349 **ZONE LOT** shall mean a parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by the zoning regulations.



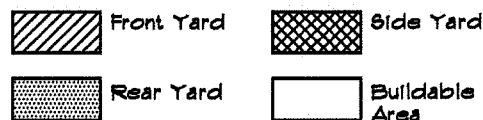
Corner Lot Scenarios



Interior Lot Scenarios



Odd-Shaped Lot Scenarios



Example of possible Lot Configurations and Yard Requirements

SECTION 2. Repeal of Section 2.02 as Previously Enacted. Section 2.02 of Ordinance No. 848 as previously enacted is hereby repealed.

SECTION 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

SECTION 5. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED THIS 17TH DAY OF FEBRUARY 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

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