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## ARTICLE FIVE

### SPECIAL AND OVERLAY DISTRICTS

#### 11.501 General Purpose

Special Districts provide for base districts that allow multiple land uses and flexible development, with the requirement that a specific plan for the area be submitted by applicants. Overlay Districts are used in combination with base districts to modify or expand base district regulations. Overlay Districts are adapted to special needs of different parts of the City of Waverly.

The Overlay Districts are designed to achieve the following objectives:

- a. To recognize special conditions in specific parts of the City which require specific regulation.
- b. To provide flexibility in development and to encourage innovative design through comprehensively planned projects.

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### MU MIXED USE DISTRICT

#### 11.502 Purpose

The MU Mixed Use District is intended to accommodate projects which combine several compatible land uses into an integrated development. The MU District may also be used to pre-designate parts of the city which are appropriate for a mixture of residential, commercial, office, and accessory uses. The District permits mixing residential areas with workplaces and services. Development in the MU District must accommodate transportation systems, pedestrian and bicycle movement, and surrounding environments.

#### 11.503 Permitted Uses

Each ordinance establishing an MU District establishes the use types permitted within its boundaries.

#### 11.504 Site Development Regulations

- a. The minimum area of any MU District is one acre.
- b. Prior to the issuance of any building permits or other authorization, all projects in the MU District shall receive approval by the City Council, following a recommendation by the Planning and Zoning Commission. This approval may be granted for a specific plan for the development of an MU District in lieu of a plan for individual projects, provided that any subsequent developments are consistent with the specific plan.
- c. Applications for approval must contain at a minimum the following information:
  1. A detailed site map, including:
    - (a) a boundary survey
    - (b) site dimensions
    - (c) contour lines at no greater than five foot intervals
    - (d) adjacent public rights of way, transportation routes, and pedestrian or bicycle systems
    - (e) description of adjacent land uses
    - (f) utility service to the site and easements through the site
    - (g) description of other site features, including drainage, soils, or other considerations that may affect development.
  2. A development plan, including:
    - (a) a site layout, including the location of proposed buildings, parking, open space, and other facilities
    - (b) location, capacity, and conceptual design of parking facilities
    - (c) description of the use of individual buildings
    - (d) description of all use types to be included in the project or area, and maximum floor area devoted to each general use

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- (e) maximum height of buildings
  - (f) schematic location and design of open space on the site, including a landscaping plan
  - (g) vehicular and pedestrian circulation plan, including relationship to external transportation systems
  - (h) schematic building elevations and sections if required to describe the project
  - (i) grading plans
  - (j) proposed sewer and utility improvements
  - (k) location, sizes, and types of all proposed signage.
3. Specific proposed development regulations for the project, including:
- (a) the specific use types permitted within the proposed district
  - (b) maximum floor area ratios
  - (c) front, side, and rear yard setbacks
  - (d) maximum height
  - (e) maximum building and impervious coverage
  - (f) design standards applicable to the project.
4. A traffic impact analysis, if required by the City.

### 11.505 Adoption of District

- a. The Planning Commission and City Council shall review and evaluate each Mixed Use District application. The City may impose reasonable conditions, as deemed necessary to ensure that a Mixed Use Development shall be compatible with adjacent land uses, will not overburden public services and facilities and will not be detrimental to public health, safety and welfare.
- b. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.
- c. The Planning Commission may recommend amendments to MU district applications.
- d. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
- e. The City Council, after proper notice, shall hold a public hearing and act upon any Ordinance establishing a MU Mixed Use District. Proper notice shall mean the same notice established for any other zoning amendment.
- f. An Ordinance adopting a Mixed Use District shall require a favorable simple majority of the City Council for approval.

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g. Upon approval by the City Council, the Development Plan shall become a part of the Ordinance creating or amending the MU District. All approved plans shall be filed with the City Clerk.

### 11.506 Amendments

The Zoning Administrator is authorized at his/her discretion to approve amendments to an approved development plan, provided that:

- a. A written request is filed with the Zoning Administrator, along with information specifying the exact nature of the proposed amendment.
- b. The amendment is consistent with the provisions of this section.
- c. The amendment does not alter the approved site regulations of the development plan and does not materially alter other aspects of the plan, including traffic circulation, mixture of use types, and physical design.
- d. Any amendment not conforming to these provisions shall be submitted to the Planning Commission and City Council for action.

### 11.507-9 Reserved

## PUD PLANNED UNIT DEVELOPMENT DISTRICT *(Repealed by Ord. 02-20, 7-15-02)*

11.510 Purpose *(Repealed by Ord. 02-20, 7-15-02)*

11.511 Permitted Uses *(Repealed by Ord. 02-20, 7-15-02)*

11.512 Site Development Regulations *(Repealed by Ord. 02-20, 7-15-02)*

11.513 Access to Public Streets *(Repealed by Ord. 02-20, 7-15-02)*

11.514 Application Process *(Repealed by Ord. 02-20, 7-15-02)*

11.515 Adoption of District *(Repealed by Ord. 02-20, 7-15-02)*

11.516 Amendment Procedure *(Repealed by Ord. 02-20, 7-15-02)*

11.517 Building Permits *(Repealed by Ord. 02-20, 7-15-02)*

11.518 Termination of PUD District *(Repealed by Ord. 02-20, 7-15-02)*

11.519 Reserved *(Repealed by Ord. 02-20, 7-15-02)*

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### TN TRADITIONAL NEIGHBORHOOD CHARACTER DISTRICT

#### 11.520 Purpose

The TN Traditional Neighborhood Character Overlay District enables the adoption of special performance and development standards in combination with site development regulations of a base district for areas that display the historic character of the traditional town of Waverly. The District recognizes the importance of these districts to the character of Waverly and provides for their conservation.

#### 11.521 Procedure for Adoption

a. Proposal

The creation of a TN Traditional Neighborhood Character Overlay District may be initiated by the Planning Commission; the City Council; or by petition of the owner or owners of 51% of the property area within the proposed district.

b. Requirements for Application

An application for the creation of a TN Overlay District must include:

1. A statement describing the proposed district's special dimensional features and stating the reasons for proposal of the district
2. A map indicating the boundaries of the proposed TN Overlay District, specifying the base district(s) included within these boundaries
3. Supplemental site development regulations, design criteria, and performance standards that apply to the proposed district. Such regulations may include maximum setbacks, dimensional requirements for street sections, or other features that are pertinent to the quality of the neighborhood environment.

#### 11.522 Adoption of District

- a. The Planning Commission and City Council shall review and evaluate each TN Overlay District application.
- b. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.
- c. The Planning Commission may recommend amendments to TN district applications.
- d. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
- e. The City Council, after proper notice, shall hold a public hearing and act upon any Ordinance establishing a TN Overlay District.
- f. The Ordinance adopting the TN District shall include a statement of purpose, a description of district boundaries, and a list of supplemental site development regulations and performance standards.
- g. An Ordinance adopting a TN Overlay District shall require a favorable vote of a simple majority of the City Council for approval.

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- h. Upon approval by the City Council, each TN Overlay District shall be shown on the Zoning Map, identified sequentially by order of enactment and referenced to the enacting Ordinance.
- i. Any protest against a TN Overlay District shall be made and filed as provided by the Code of Nebraska, and amendments thereto.

### **11.523 Development and Building Permits within a TN District**

- a. All plans for development within a TN District shall be reviewed by the Planning Commission.
- b. Prior to the issuance of any building permits or other authorization for development, all projects requiring a building or development in the TN District shall be reviewed by the Planning Commission for consistency with the design criteria of the TN District and determined to be consistent with the regulations of the district. The City shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within an TN District unless it is in compliance with the approved site development regulations for the TN District, or any approved amendments.
- c. A denial of a project in a TN District by the Planning Commission may be appealed to the Board of Adjustment.

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### FP SALT CREEK VALLEY FLOODPLAIN/ FLOODWAY OVERLAY DISTRICT

#### 11.530 Statutory Authorization, Findings of Fact and Purposes *(Amended by Ord. 11-03, 2/7/11)*

##### a. Statutory Authorization

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The Legislature, in Sections 31-1001 to 31-1022, R.R.S. 1943, has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the flood-prone area. Therefore, the City Council of Waverly, Nebraska, ordains as follows:

##### b. Findings of Fact

###### 1. Flood Losses Resulting from Periodic Inundation

The flood hazard areas of Waverly, Nebraska, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.

###### 2. General Causes of the Flood Losses

These flood losses are caused by: (1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

###### 3. Methods Used to Analyze Flood Hazards

This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

- a. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this ordinance. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated February 18, 2011 as amended, and any future revisions thereto.
- b. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
- c. Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.
- d. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.
- e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood.

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### c. Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 11.530, B, 1, by applying the provisions of this ordinance to:

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

### **11.531 General Provisions** (*Amended by Ord. 11-03, 2/7/11*)

#### a. Lands To Which Ordinance Applies

This ordinance shall apply to all lands within the jurisdiction of the City of Waverly identified on the Flood Insurance Rate Map (FIRM) dated February 18, 2011, and any revisions thereto, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Section 11.533 of this ordinance. In all areas covered by this ordinance no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 11.534, 11.535, and 11.536.

#### b. The Enforcement Officer

The Zoning Administrator of the community is hereby designated as the community's duly designated Enforcement Officer under this Ordinance.

#### c. Rules For Interpretation Of District Boundaries

The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Waverly Board of Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Waverly Board of Adjustment and to submit his own technical evidence, if he so desires.

#### d. Compliance

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



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### e. Abrogation and Greater Restrictions

It is not intended by this ordinance to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

### f.. Interpretation

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

### g. Warning and Disclaimer of Liability

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

### h. Severability

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

### i. Appeal

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

## 11.532 Development Permit

### a. Permit Required

No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 11.540.

### b. Administration

1. The Zoning Administrator is hereby appointed to administer and implement the provisions of this ordinance.
2. Duties of the Zoning Administrator shall include, but not be limited to:
  - a. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
  - b. Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.

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- c. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
- d. Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- e. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- f. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
- g. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been floodproofed.
- h. When floodproofing is utilized for a particular structure the Zoning Administrator shall be presented certification from a registered professional engineer or architect.

### c. Application for Permit

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

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

### 11.533 Establishment of Zoning Districts

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: A floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the Flood Insurance Study [and accompanying map(s)]. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

### 11.534 Standards for Floodplain Development

- a. No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this Section are satisfied.

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- b. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; zones shall be subject to all development provisions of Section 11.535. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from Federal, State or other sources.
- c. Until a floodway has been designated, no development or substantial improvement may be permitted within special however, the water surface elevation was not provided. The unnumbered A flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown on the Flood Insurance Study.
- d. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
  - 1. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - 2. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
  - 3. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - 4. All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.
- e. Storage of Material and Equipment
  - 1. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
  - 2. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
- f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards, and (d) proposals for development (including proposals for manufactured home parks and subdivision) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the base flood elevation.

### 11.535 Flood Fringe Overlay District - (Including AO and AH Zones)

- a. Permitted Uses

Any use permitted in Section 11.536 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 11.534 are met.

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### b. Standards for the Flood Fringe Overlay District

1. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above **one (1) foot** above the base flood elevation.
2. Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above **one (1) foot** above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator as set forth in Section 11.532 B, 2.
3. Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
5. **Manufactured Homes**
  - a. All manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
    - (1) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
    - (2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
    - (3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
    - (4) Any additions to the manufactured home be similarly anchored.
  - b. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:
    - (1) Outside of a manufactured home park or subdivision,

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- (2) In a new manufactured home park or subdivision,
- (3) In an expansion to an existing manufactured home park or subdivision, or
- (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood,

be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above **one (1) foot** above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 11.535, 5A.

- c. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of Section 11.534,5B be elevated so that either:
  - (1) The lowest floor of the manufactured home is at or above **one (1) foot** above the base flood elevation, or
  - (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 11.534, 5A.
6. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.
7. Located within the areas of special flood hazard established in Section 11.531, A are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:
  - a. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as **one (1) foot** above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
  - b. All new construction and substantial improvements of non-residential structures shall:
    - (1) Have the lowest floor elevated above the highest adjacent grade at least as high as **one (1) foot** above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
    - (2) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects

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of buoyancy. Such certification shall be provided to the official as set forth in Section 11.532, B, 2, g.

- c. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

### 11.536 Floodway Overlay District

#### a. Permitted Uses

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

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

#### b. Standards for the Floodway Overlay District

New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Section 11.534 and 11.535. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State or other sources or Section 11.534,D,(d.) of this ordinance, in meeting the standards of this section.

### 11.537 Variance Procedures

1. The Waverly Board of Adjustment as established by the City of Waverly, Nebraska shall hear and decide appeals and requests for variances from the requirements of this ordinance.
2. The Waverly Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.
3. Any person aggrieved by the decision of the board of adjustment or any taxpayer may appeal such decision to the District Court as provided in Section 19-912, R.R.S. 1943.
4. In passing upon such applications, the Waverly Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

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- d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location, where applicable;
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. The compatibility of the proposed use with existing and anticipated development;
  - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
  - k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- a. Conditions for Variances
- 1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (11.537,A,2-11.537,A,6 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
  - 2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - 3. Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.
  - 4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - 5. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - 6. The applicant shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below the base flood level will result in increased premiums rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

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### 11.538 Nonconforming Use

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
  - a. If such use is discontinued for Six (6) consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of Three (3) months.
  - b. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration shall not preclude its continued designation.

### 11.539 Penalties for Violation

Penalties for violation shall be in accordance with Section 11.1214 of the Waverly Zoning Regulations.

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

#### a. Amendments

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Waverly, Nebraska. At least 10 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plain Management Act.



## SPECIAL AND OVERLAY DISTRICTS

### HO HIGHWAY CORRIDOR OVERLAY DISTRICT

#### 11.540 Intent:

The City of Waverly has established basic site and building development criteria to be implemented within the boundaries of this overlay district. The Highway Corridor Overlay District has been established in order to implement the policies and guidelines developed by the City of Waverly. These criteria include but are not limited to the following: landscaping, building material selection, lighting, and road development. The purpose for regulating these issues is to provide for a cohesive and properly developed corridor and entrance into Waverly along Highways 6 and along Amberly Road. Guiding development in this manner promotes the general health, safety, and welfare of the residents within the zoning jurisdiction of Waverly by providing quality design and construction which will also aid in the protection of past and future investment in the corridors. The regulations in the overlay district are in addition to those of the underlying zoning district for the property and affect all new or expanded (20% or more of original footprint) public, commercial, industrial, multi-family residential, residential subdivisions (fencing), and mixed use buildings and properties. Where regulations are in direct conflict with other regulations in this ordinance, the stricter shall apply.

#### 1. Purpose:

The purpose of these criteria is to establish a checklist of those items that affect the physical aspect of Waverly. Pertinent to appearance is the design of the site, building and structures, planting, signs, and miscellaneous other objects that are observed by the public.

The criteria contained herein are not intended to restrict imagination, innovation, or variety but rather to assist in focusing on design principles that can result in creative solutions that will develop a satisfactory visual appearance within the city, preserve taxable values, and promote the public health, safety, and welfare.

#### 2. Geographic Area:

The Highway Corridor Overlay District extends generally 660 feet (1/8 mile) to 2,640 feet (1/2 mile) from the right-of-way line on either side of U.S. Highway 6 and also includes properties adjacent to Amberly Road. The Downtown sub-area includes the old downtown area of Waverly. Entrance nodes should also be recognized at the east and west sides of the city. In the event the standards of this overlay district are in conflict with those of the underlying zoning district, the standards of the overlay district shall apply. If a site or property is partially covered by said overlay district, then the entire portion of the site or property facing the corridor is to be covered by these regulations. For a graphically defined area, see the Official Zoning Map.

#### 11.541 Permitted Uses:

The following principal uses are permitted in the HO District.

All permitted uses contained in the underlying base zoning district unless specifically noted in these regulations.

#### 11.542 Conditional Uses:

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the HO Corridor Overlay District as recommended by the Planning Commission and City Council and approved by the City Council.

1. All conditional uses contained in the underlying base zoning district unless specifically noted in these regulations.

#### 11.543 Criteria for Application:

1. Structures Required for Review

## SPECIAL AND OVERLAY DISTRICTS

- A. All developments consisting of one principal building with single or mixed uses shall comply with the design criteria of this section.
- B. All developments consisting of more than one principal building, mixed-uses, multiple-pad development, and/or similar developments shall comply.
- C. Rehabilitation

The model design standards shall apply to existing, conforming development within the corridor when changes (renovation, restoration, modification, addition, or retrofit; collectively referred to as rehabilitation) are proposed to a structure or a site that will meet or exceed the standard of 20 percent of the existing size or 50 percent of the current appraised value of the structure or site as established by the county, whichever is less. Rehabilitation costs or measurements shall be aggregated over a five year period to determine whether the rehabilitation is subject to the design standards.

Rehabilitation projects shall conform to the model design standards to the greatest extent possible. Where conformance is not possible for all or any part of a standard, the applicant shall provide written explanation for each area of non-compliance.

### Exceptions

The standards shall not apply to construction of individual homes on existing lots or agricultural use and operations but shall apply to new residential subdivisions that consist of more than one lot (subdivision perimeter fencing).

## 2. Process.

A. Subdivision and/or Building Permit Approval: All Commercial, Industrial, and Multi-Family building projects within the corridor of the City of Waverly are required to receive Subdivision and/or building permit approval. As a condition of its subdivision and/or permit approval, all commercial, industrial, and multi-family building projects within the required geographic region shall comply with the Corridor Overlay District regulations and Corridor Overlay District Design Guideline Booklet. The Developer shall place maintenance provisions required by this section within all restrictive covenants.

B. Pre-application Conference: A pre-application conference with city staff is required to give the applicant an opportunity to discuss plans before a great deal of time or money is expended.

C. Application for Design Review: The applicant shall fill out the "Application for Certificate of Approval" and submit it along with the required submittals. See Corridor Overlay District Design Guideline Booklet for a listing of required submittals.

D. Design Review: City staff (or Design Review Board/Architect) will review the submittal documents for compliance with regulations and intent of the overlay district and those identified in the Corridor Overlay District Design Guideline Booklet.

E. Certificate of Approval: Upon a successful review, the City of Waverly will issue to the applicant a Certificate of Approval. A copy of this shall be included with the Building Permit documents in order to receive a Building Permit.

F. Appeals: In the event where the Applicant, City staff, and City Design Review Architect/Board cannot come to an agreement, the applicant may appeal the decision by requesting an amendment to the Subdivision Agreement (if appropriate) from the Waverly City Council.

G. Certificate of Occupancy Permit: After the building permit is issued, all design requirements must be completed as approved in order for a Certificate of Occupancy to be issued.

H. Maintenance of Design requirements: The property owner is required to maintain the design requirements of the project. In addition to the remedies of Section 11.1214, neglect in maintaining the structure's appearance, landscaping, lighting and other design requirements may result in the revocation of the Occupancy Permit.

I. Fees: Fees may apply to each individual step as established in the Master Fee Schedule.

## 3. Factors for Evaluation.

The following factors and characteristics that affect the appearance of a development will govern the evaluation of a design submission:

Conformance of regulations and the Building Design Criteria.

Logic of design.

Exterior space utilization.

Architectural character.

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Attractiveness material selection.  
Harmony and compatibility.  
Circulation-vehicular and pedestrian.  
Maintenance aspects.

### 11.544 Criteria for Appearance:

#### 1. Relationship of Buildings to Site

The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting, safe pedestrian movement, and parking areas.

Site planning in which setbacks and yards are in excess of standard commercial zoning restrictions is encouraged to provide an interesting relationship between buildings.

Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms, or other innovative means so as to screen parking areas from view from public ways.

Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.

Newly installed utility services and service revisions necessitated by exterior alterations shall be underground.

Refuse and waste removal areas, service yards, storage yards, loading areas, and exterior work areas shall be oriented to the rear of the building away from public right-of-way or properly and permanently screened from view from public ways using materials and berming as stated in criteria for equipment screening.

#### 2. Relationship of Buildings and Site to Adjoining Area (Outside of subdivision or developments)

Adjacent buildings of different architectural styles shall be made compatible by such means as screens, sight breaks, and materials.

Attractive landscape transitions shall be designed to be compatible to adjoining properties.

Harmony in texture, lines, and masses is required. Monotony shall be avoided.

#### 3. Landscape and Site Treatment

Landscape elements included in these criteria consist of all forms of planting and vegetation, ground forms, rock groupings, water patterns, and all visible construction except buildings and utilitarian structures. Upon installation of required landscape materials, each owner shall take actions to ensure continued health and maintenance of such. Required landscaping that does not remain healthy shall be replaced consistent with these regulations.

Where natural or existing topographic patterns contribute to beauty and utility of a development, they shall be preserved and developed. Modification to topography will be permitted where it contributes to good site design and development.

Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for walking and, if seating is provided, for sitting.

Landscape treatments shall be provided to enhance architectural features, strengthen vistas and important axes, and provide shade. Spectacular effects shall be reserved for special locations only.

Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments.

Plant material shall be selected for interest in its structure, texture, and color and for its ultimate growth. Plants that are indigenous to the area and others that will be hardy, harmonious to the design, and of good appearance shall be used. See Corridor Overlay District Design Guideline Booklet for a listing of preferred plant materials.

Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments. One tree at least every 40 feet shall be planted and maintained on the property along all street frontages. All projects shall use a minimum of the following listed plant varieties. See Corridor Overlay District Design Guideline Booklet for a listing of those plant materials.

A minimum of two species listed under the deciduous tree category.

A minimum of one species listed under the coniferous tree category.

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A minimum of one species listed under the deciduous shrub category.

A minimum of one species listed under the coniferous shrub category.

Parking areas and traffic ways shall be hard surfaced and striped and shall be enhanced with landscaped spaces containing trees or tree groupings and shrubs to provide shade, direction, and aesthetics. Plant material within the Highway 6 right-of-way shall meet the applicable standards of Nebraska Department of Roads.

Screening of service yards and other places such as mechanical equipment, trash dumpsters, or other items that tend to be unsightly shall be accomplished by use of screen walls (brick, stone, ironwork, or some other accepted material finish), fencing, planting, or combinations of those. Screening shall be equally effective in winter and summer months.

Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Such building lighting shall be downward facing and be similar in appearance and quality level as those in the Corridor Overlay District Design Guideline Booklet. Lighting standards and fixtures for pedestrian ways, parking areas, and drives within the commercial, industrial, and multi-family building area shall be similar in appearance and quality level as those in the Corridor Overlay District Design Guideline Booklet. Lighting shall be restrained in design and excessive brightness avoided. Lighting shall be designed to a standard that does not impact and adversely affect adjoining properties, especially residential areas. Lighting in the sub-area shall be of historic appearance similar to those in the Corridor Overlay District Design Guideline Booklet. Lighting within the Highway 6 right-of-way shall meet the applicable requirements of Nebraska Department of Roads and shall be of aesthetic quality where possible.

All residential fencing within this District shall not exceed six feet in height and perimeter fencing within the subdivision shall match in style and color. If multiple styles and colors exist prior to the adoption of these regulations, then any new fence shall be similar to that style and color used most.

Fencing used for screening within the District and/or as part of a commercial or industrial development shall be required to be a solid fence. Chain link fences, with or without slats, shall not be used to satisfy this screening requirement.

Whenever possible, all off street parking shall be to the rear of the building, and all such parking shall have a 6 feet wide planting buffer and berming, plantings, and/or screen wall at the public right of way or nearest lot line. Screen walls shall either be brick, stone, ornamental ironwork, or some other accepted material finish. All parking in the front of the building shall require berming and landscaping that screens the parking from public right-of-way.

#### 4. Building Design

Architectural design and style are not restricted; however architectural style shall be consistent throughout the development. See Corridor Overlay District Design Guideline Booklet for case studies (examples of developments or buildings considered meeting this concept). Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.

Buildings shall have good scale and be in harmonious conformance with permanent neighboring development. Buildings with multiple heights or section levels shall orient the shorter to the public right-of-way.

The primary building material of all portions of the structures shall be negotiated with the City; however, sample materials shall include, but not be limited to, preferred materials of high quality such as brick (clay), stucco, wood, glass, pre-cast concrete, split faced concrete masonry units (CMU) with integrated color pigmentation, and stone material native to Eastern Nebraska. The materials shall be similar and compatible throughout the entire development. Other primary building materials (of good architectural character, i.e., standard CMU, pre-engineered metal building panels) will be allowed provided that a minimum of 30 percent of the street side façade(s) is of a preferred material. Changes in use from industrial to another use shall require preferred materials improvements to the building. Other secondary building materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.

Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.

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Materials shall be of durable quality.

In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.

Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationships to one another.

Colors shall be harmonious and use only compatible accents.

Colors shall be of low reflectance, subtle, neutral, or earth tones and shall not be of high-intensity or metallic colors unless the colors are true to the materials being used and are aesthetically pleasing. See Corridor Overlay District Design Guideline Booklet for examples of preferred colors.

Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building such as plant material, walls, fences, and parapets, or they shall be so located as not to be visible from any public ways.

Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design. Such building fixtures shall be down lighting and consistent with style of lighting used for parking and pedestrian ways. See Corridor Overlay District Design Guideline Booklet for examples of preferred fixtures and standards for the identified corridors/areas.

Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance. Measures shall be taken to break up the flatness of all buildings and reduce the scale of large buildings using windows and architectural building design and techniques. No street-facing façade may have a continuous length of 50 feet or over without an offset in the building elevation equal to a dimension of at least five feet.

Building orientation shall be toward an arterial street unless it is demonstrated that this would not be feasible. All sides of a building facing public right-of-ways shall be designed as a building front. Drive-thru features should not face any arterial or collector streets/highways. The second floors of existing two story structures are encouraged to be converted to a residential use and/or office use.

Pitched or gabled roofs shall have a minimum roof slope equal to one foot of vertical height to every three feet of horizontal distance. Flat roofs on buildings shall have parapets. Permitted roof materials may include asphalt shingles, slate or simulated slate shingles, standing seam metal, or other similar roof materials.

Metal Buildings shall not be allowed to have visible exterior metal supports.

All openings in the façade of a building (windows, doorways, etc.) shall be proportioned to reflect pedestrian scale and designed in a manner that encourages interest at the street level. Window area on each façade shall be equal to at least 20% of the area of the façade. Main or primary entrances to buildings must be delineated through the use of architectural detailing appurtenant to the architectural style of the building. The main or primary entrances shall be oriented toward the front or side street setback.

Windows shall not carry the appearance of vacancy or deterioration and shall utilize decorative features such as displays, curtains, and other materials to minimize an appearance of vacancy or deterioration. Windows shall maintain the architectural character of the structure of which they are a part.

Awnings or canopies shall be made of metal or cloth material.

Walkway coverings shall be of sheet metal, metal shingles, standing-seam construction, or canvas or cloth.

Planter boxes and screening walls, when used, shall be compatible with the primary structure.

Facades consisting of brick or masonry shall not be painted if they have not previously been painted unless previously approved prior to design review.

### On-Site Automobile, Pedestrian, and Bicycle Circulation

#### Intent

Create a safe and efficient vehicular circulation system that avoids traffic congestion. Create a safe, continuous pedestrian and bicycle network that minimizes conflict with vehicular movement while promoting a convenient option for movement within and between developments.

#### Standards

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All city vehicular and pedestrian circulation standards shall apply unless otherwise provided herein. All multifamily and non-residential developments shall provide pedestrian and vehicular connections to each adjoining public street.

Primary circulation and access to and from multifamily and non-residential use areas shall be oriented toward predominately non-single-family residential streets.

All on-site sidewalks and pedestrian walkways shall be a minimum width of five feet unless part of a city trail system where such walks shall adhere to such standards.

All sidewalks and pedestrian walkways shall be aligned and connected with those on adjacent properties and public rights-of-way.

Except for single family dwellings, private full movement driveways giving access to development sites shall be aligned across public streets to contribute to circulation efficiency unless determined otherwise by the local government.

On-site sidewalk systems (or identified walkways) shall provide pedestrian connections that do not require walking across grass, landscaped areas, or the drive lanes of parking areas.

Each point at which the system of sidewalks or walkways must cross an internal street, drive, or parking lot shall be clearly marked through the use of change in paving materials, height, or distinctive colors.

The hardscape features described in this section, e.g., sidewalks, driveways, etc., shall seek to minimize imperviousness whenever possible and be designed to complement the LID (low impact development) stormwater management features on the site.

All parking requirements shall meet the minimum standards for the use of the property and parking, and related drive-thru uses shall be designed to promote efficient circulation.

### On-Site Surface Parking

#### Intent

Parking areas shall be designed and located to minimize negative visual impacts particularly as viewed from Highway 6 and Amberly Road, frontage streets, and residential development.

#### Standards

(1) All applicable local minimum off-street parking and loading requirements shall be met, and all off-street parking shall be hard surfaced and striped.

(2) No more than 35 percent of a site's frontage along 1) Highway 6, 2) a Highway 6 frontage road, 3) Amberly Road, or 4) residential development shall be occupied by parking. If a property has dual or reverse frontage on both Highway 6 or Amberly Road and a frontage road, this standard shall apply to the frontage on Highway 6.

(3) Garage entries, carports, and parking structures shall be internalized in building groupings or oriented away from street frontage to the maximum extent feasible.

(4) The number of contiguous parking spaces shall be limited to 20, and each block of 20 shall be separated from each other by at least one of the following methods:

a. A landscaped island that separates the blocks and is at least nine feet wide;

A pedestrian walkway or sidewalk within a landscaped median that is at least nine feet wide;

A decorative fence or wall, a minimum of three feet in height, bordered by five feet of landscaping on at least one side;

An access drive or public street bordered by five feet of landscaping on at least one side; or

A building or buildings.

(5) All of the required landscaped areas must contain a minimum of 75 percent living and irrigated landscaping material with a maximum of 25 percent nonliving landscaping material. Approved sidewalks are not counted toward the non-living landscape material percentage.

(6) Parking lot design shall incorporate terminal islands at the end of parking row. Divider strips between parking rows shall be used to help disperse the required landscaping throughout the entire parking lot.

(7) Large areas of parking (50 or more spaces) shall be distributed between the back or sides of a building with not more than 50 percent of the parking for the entire property remaining between the principal building and the primary abutting street.

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- (8) The perimeter of all parking areas shall be buffered from adjacent streets, public rights-of-way, public open space, and adjacent uses by at least one of the following methods:
- a. A berm three feet high with a maximum slope of 3:1 in combination with evergreen and deciduous trees and shrubs;
  - b. A hedge at least three feet high, consisting of a double row of shrubs planted three feet on center along 75 percent of the perimeter length; or
  - c. A fence or wall at least three feet high in combination with landscaping.
- (9) All plant materials (see Corridor Overlay District Design Guideline Booklet for a listing of preferred plant materials) shall be installed in the following minimum sizes:
- Deciduous shade trees - 2 inch caliper
  - Ornamental trees - 2 inch caliper
  - Evergreen trees - 5 feet high
  - All shrubs - 5 gallon container
  - Groundcover, annuals, and perennials - 1 gallon container

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### IO Interstate Corridor Overlay District

#### 11.550 Intent:

The City of Waverly has established basic site and building development criteria to be implemented within the boundaries of this overlay district. The Interstate Corridor Overlay District has been established in order to implement the policies developed in the Comprehensive Development Plan and those recommended in the Nebraska Innovative Zone Commission Design Standards, August 2009. These criteria include but are not limited to the following: landscaping, building material selection, lighting, and road development. The purpose for regulating these issues is to provide for a cohesive and properly developed corridor along Interstate 80. Guiding development in this manner promotes the general health, safety, and welfare of the residents within the zoning jurisdiction of the Waverly by providing quality design and construction which will also aid in the protection of past and future investment in the corridor. The regulations in the overlay district are in addition to those of the underlying zoning district for the property and affect all new or expanded public, commercial, industrial, multi-family residential, residential subdivisions (fencing), and mixed use buildings and properties. Where regulations are in direct conflict with other regulations in this ordinance, the stricter shall apply.

#### 1. Purpose:

The purpose of these adopted design standards is to promote quality design, preserve the natural features, preserve the appearance of the natural and agricultural landscape, and promote economic development along the I-80 corridor. The design standards will encourage design compatibility with the surrounding area, achieve greater architectural cohesiveness and compatibility where appropriate, and minimize the negative visual impacts of site development. These standards shall apply to the design and placement of landscaping, buffers, buildings, and exterior architectural features and finishes.

The purpose of these criteria is to establish a checklist of those items that affect the physical aspect of Waverly and its extraterritorial jurisdiction. Pertinent to appearance is the design of the site, building and structures, planting, signs, and miscellaneous other objects that are observed by the public.

The criteria contained herein are not intended to restrict imagination, innovation, or variety but rather to assist in focusing on design principles that can result in creative solutions that will develop a satisfactory visual appearance within Waverly's jurisdiction, preserve taxable values, and promote the public health, safety, and welfare.

#### 2. Geographic Area:

The IO Interstate Corridor Overlay District shall apply to those areas lying approximately within one quarter mile (1/4 mile) to one half mile (1/2 mile) of either side of the right of way of Interstate 80. In the event the standards of this overlay district are in conflict with those of the underlying zoning district, the standards of the overlay district shall apply. If a site or property is partially covered by said overlay district, then the entire portion of the site or property facing the Corridor is to be covered by these regulations. For a graphically defined area, see the Official Zoning Map.

#### 11.551 Permitted Uses:

The following principal uses are permitted in the IO District.

All permitted uses contained in the underlying base zoning district unless specifically noted in these regulations.

#### 11.552 Conditional Uses:

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the IO Overlay District as recommended by the Planning Commission and City Council and approved by the City Council.



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1. All conditional uses contained in the underlying base zoning district unless specifically noted in these regulations.

### 11.553 Criteria for Application:

All commercial, industrial, and multi-family building projects within the required geographic region shall comply with the Interstate Corridor Overlay District regulations and Corridor Overlay District Design Guideline Booklet. The Developer shall place maintenance provisions required by this section within all restrictive covenants. The application and review procedure for a site plan review shall be as follows:

#### Pre-application Conference

The applicant shall schedule and attend a pre-application conference with the city planner or representative of the Waverly Planning Department no more than 60 days prior to submitting a site plan application. Site plan information shall be submitted to the planning department at least 14 business days prior to the pre-application conference in a form identified by the planning department. The purpose of the pre-application conference shall be for the applicant to review the site plan with the planning department and other departments, as appropriate, and to identify any initial conflicts between the site plan and these standards.

#### Site Plan Application

The applicant shall submit an application in accordance with the city.

The application shall be made within 60 days of the pre-application conference.

#### Design Review Board

The application shall be sent to the applicable Waverly Design Review Board/Architect or I-80 Corridor Design Review Board for review and recommendation prior to either a planning department or planning commission consideration of the application.

#### Planning Department Review and Decision on the Site Plan

For site plan applications that are considered by the planning department, the planning department shall review the application and make a decision to approve, approve with conditions, or disapprove the site plan application in accordance with these standards and state law.

For site plan applications considered by the planning commission, the planning department shall review the site plan application and prepare a recommendation for the planning commission. The planning commission shall hold a public meeting to review the application and make a decision to approve, approve with conditions, or disapprove the site plan application in accordance with this ordinance and state law.

#### Approval Criteria

Recommendations and decisions on a site plan shall be based on consideration of the following criteria:

A. That the proposed development is consistent with all the requirements of these standards and other related codes and ordinances enforced by the city;

B. That the proposed development is in compliance with the applicable base district and overlay districts; and

That the proposed development meets all the requirements or conditions of any applicable development approvals (e.g., rezoning or conditional use permit approval).

#### Time Limit

A. Unless otherwise specified in the site plan approval, an application for a building permit shall be applied for and approved within one year of the date of the site plan approval or the site plan shall become invalid. Permitted timeframes do not change with successive owners.

Upon written request, one extension of one year may be granted by the planning department if the applicant can show good cause.

#### Amendments of an Approved Site Plan

A. If an applicant desires to amend an approved site plan, then the amendment may be made without the approval of the planning department with the exception of those changes stated in paragraph (B) below. However, if a proposed change will, in the opinion of the planning department, substantially affect the terms of the original approval or would result in significant adverse impacts on the surrounding properties or the community at-large, a re-submittal to the planning department or the planning commission (as appropriate) shall be required pursuant to the provisions of this ordinance.

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B. A change to an approved site plan shall require a re-submittal to the decision-making body responsible for the original approval, if

The density of the development is to be increased;

(2) The gross square footage of nonresidential (and multi-family residential) buildings is to be increased or the number of stories is to be reduced or increased;

Required landscaping materials are to be deleted;

Required open space is to be deleted;

There is any change in plans for historic structures or sites; and/or

Drainage, streets, or other engineering design changes will materially alter items approved in the rezoning or subdivision approval.

Identify categories of changes that should subject the site plan to re-review and approval, such as stormwater issues.

8. Certificate of Occupancy and Maintenance

A. Certificate of Occupancy Permit: After the zoning/building permit is issued, all design requirements must be completed as approved in order for a Certificate of Occupancy to be issued.

B. The property owner is required to maintain the design requirements of the project. In addition to the remedies of Section 11.1214, neglect in maintaining the structure's appearance, landscaping, lighting and other design requirements may result in the revocation of the Occupancy Permit.

9. Structures Required for Review

A. All developments consisting of one principal building with single or mixed uses shall comply with the design criteria of this section.

B. All developments consisting of more than one principal building, mixed-uses, multiple-pad development, and/or similar developments shall comply.

C. Rehabilitation

The model design standards shall apply to existing, conforming development within the corridor when changes (renovation, restoration, modification, addition, or retrofit; collectively referred to as rehabilitation) are proposed to a structure or a site that will meet or exceed the standard of 20 percent of the existing size or 50 percent of the current appraised value of the structure or site as established by the county, whichever is less. Rehabilitation costs or measurements shall be aggregated over a five year period to determine whether the rehabilitation is subject to the design standards.

Rehabilitation projects shall conform to the model design standards to the greatest extent possible.

Where conformance is not possible, for all or any part of a standard, the applicant shall provide written explanation for each area of non-compliance.

Exceptions

The standards shall not apply to construction of individual homes on existing lots or agricultural use and operations but shall apply to new residential subdivisions that consist of more than one lot for perimeter fencing standards.

11.554 Criteria for Appearance:

1. General Design Standards

The goal and purpose of these design standards is to create a sense of place within the community. Here, the design standards are intended to establish the baseline requirements for design that reflects the desired regional character while allowing flexibility for individual project design that works with the jurisdiction of Waverly.

The following standards are applicable to all development types.

Protection of Natural Features, Resources, and Sensitive Areas

(1) Intent

Protect significant natural features, resources, and sensitive areas in order to minimize the impacts of development on the environment and create more distinctive site development. Where appropriate, natural features, resources, and sensitive areas may be used as amenities to enhance the value of development.

Standards

Development shall be organized and designed to protect, appropriately use, or enhance the following types of natural resources and features. This shall be accomplished by restricting development in these

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areas and then including such features in common landscaped areas or dedicated open space by allowing construction in these areas sensitive to the protection of these features or by mitigating impacts. If possible, these features shall be connected or integrated with similar features on adjacent lands. The following features shall be given consideration in this category:

Water features (in addition to floodplains, which are dedicated);

Parks and public open space areas on or adjacent to the site;

Historic or archeological sites or areas that have been recognized by the local governing body as significant;

Significant views from the I-80 roadway;

Riparian wildlife habitat as identified by the Nebraska Game and Parks Department;

Other natural features such as bluffs, ridges, steep slopes, stands of mature trees, rock outcroppings, or wetlands; and

Noise corridors/envelopes.

a. Development shall be prohibited from locating within the 100-year floodplain boundary as defined by the Federal Emergency Management Agency.

b. Development shall be set back a minimum of 100 feet from the edge of a wetland or natural area as defined by the City of Waverly. Where an existing setback is in place, the larger of the two shall apply.

B. Open Areas and Amenities

Intent

Developments shall dedicate and develop open space, trails, and amenities in accordance with the Waverly Comprehensive Plan and the adopted subdivision regulations. "Open areas" means unoccupied space on the same lot with the building subject to the open area requirement and shall consist of private open space, open recreational facilities, and areas used exclusively for pedestrian and non-motorized traffic. Parking lots, recreational vehicle and equipment storage areas, public and private roadways, and structures shall not be considered "open areas" with the exception of residential development clubhouses/recreation facilities.

Standards

To the maximum extent practicable, and in accordance with any applicable subdivision regulations, open areas shall be organized so as to include or protect as many of the natural resources and features identified in the previous section as possible.

a. Open areas shall be organized so as to create integrated systems of open areas that connect with the following types of lands located within or adjacent to the development plan or plat:

(i) Dedicated park lands;

(ii) Dedicated school sites;

(iii) Dedicated open spaces;

Any local or regional trail or open space system; and  
Activity or community centers.

b. Each open area shall be adjacent to or visible from at least one dedicated public street or public site of the development. The majority of open areas shall not be located in isolated corners of the development, in peripheral strips along the borders of the development, or in unconnected patterns unless such a location is necessary to achieve one of the connections or visibility requirements.

c. Stormwater management systems shall be located, designed, and managed to serve as visual amenities, entryways features, or opportunities for passive recreation whenever possible.

d. The following stormwater management techniques, when designed pursuant to generally recognized standards and specifications and when long-term maintenance is provided, shall be included as open space and shall qualify for a reduction in required landscaping up to 10 percent of the total:

Bioretention facilities,

Rain gardens,

Infiltration swales and trenches, or

Any alternative method identified by the jurisdiction.

## SPECIAL AND OVERLAY DISTRICTS

e. On sites with existing mature trees, at least twenty percent of significant trees shall be preserved or transplanted on the site. For the purposes of this section, "significant" trees include the following:

- (i) Deciduous trees with 12 inch minimum caliper;
- (ii) Evergreen trees 12 feet or more in height; or
- (iii) Groups or stands of 10 or more trees with a minimum caliper of six inches.

### Significant Tree Replacement

(iv) Where significant trees cannot feasibly be preserved, the total caliper inches of the tree(s) that are removed shall be replaced by the same caliper inches of new trees. The new trees shall either be of the same or similar species, or if identified by the Planning Department for species diversification, shall be from a list of permissible species approved by the city.

(v) If site limitations affect the ability of the applicant to replace the total caliper inches of the removed tree(s), the city may allow the applicant to reduce the replacement measurement in an amount that allows for the maximum replacement of caliper inches feasible on the site. This reduction shall not exceed 50 percent of the total caliper inches removed. Where this reduction is applied, the applicant shall make a contribution to the community's Tree Fund for the remaining caliper inches not replaced. The amount of the in lieu fee shall be calculated as the cost to replace the remaining total caliper inches not planted with new trees of the same or similar species purchased wholesale at two inch caliper.

(vi) The Tree Fund shall be used to replace or provide new trees within the jurisdiction of Waverly.

### On-Site Automobile, Pedestrian, and Bicycle Circulation

#### Intent

Create an efficient vehicular circulation system that avoids the creation of large, isolated tracts without routes for through traffic. Create a safe, continuous pedestrian and bicycle network that minimizes conflict with vehicular movement while promoting a convenient option for movement within and between developments.

#### (2) Standards

a. All city vehicular and pedestrian circulation standards shall apply unless otherwise provided herein.

b. All multifamily and non-residential developments shall provide pedestrian and vehicular connections to each adjoining public street.

c. Primary circulation and access to and from multifamily and non-residential use areas shall be oriented toward predominately non-single-family residential streets.

d. All on-site sidewalks and pedestrian walkways shall be a minimum width of five feet. All trails and sidewalks designated as part of a trail system shall be a minimum of ten feet in width.

e. All sidewalks and pedestrian walkways shall be aligned and connected with those on adjacent properties and public rights-of-way.

f. Except for single family dwellings, private full movement driveways giving access to development sites shall be aligned across public streets to contribute to circulation efficiency unless determined otherwise by the local government.

g. On-site sidewalk systems (or identified walkways) shall provide pedestrian connections that do not require walking across grass, landscaped areas, or the drive lanes of parking areas.

h. Each point at which the system of sidewalks or walkways must cross an internal street, drive, or parking lot shall be clearly marked through the use of change in paving materials, height, or distinctive colors.

i. The hardscape features described in this section, e.g., sidewalks, driveways, etc., shall seek to minimize imperviousness whenever possible and be designed to complement the LID (low impact development) stormwater management features on the site.

j. All parking requirements shall meet the minimum standards for the use of the property and parking, and related drive-thru uses shall be designed to promote efficient circulation.

### On-Site Surface Parking

#### Intent

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Parking areas shall be designed and located to minimize negative visual impacts, particularly as viewed from I-80, frontage streets, and residential development.

### Standards

- a. All applicable local minimum off-street parking and loading requirements shall be met, and all off-street parking shall be hard surfaced and striped.
- b. No more than 50 percent of a site's frontage along 1) I-80, 2) an I-80 frontage road, or 3) residential development shall be occupied by parking. If a property has dual or reverse frontage on both I-80 and a frontage road, this standard shall apply to the frontage on I-80.
- c. Garage entries, carports, and parking structures shall be internalized in building groupings or oriented away from street frontage to the maximum extent feasible.
- d. The number of contiguous parking spaces shall be limited to 20, and each block of 20 shall be separated from each other by at least one of the following methods:
  - (i) A landscaped island that separates the blocks and is at least nine feet wide;  
A pedestrian walkway or sidewalk within a landscaped median being at least nine feet wide;  
A decorative fence or wall, a minimum of three feet in height, bordered by five feet of landscaping on at least one side;  
An access drive or public street bordered by five feet of landscaping on at least one side; or  
A building or buildings.
- e. All of the required landscaped areas must contain a minimum of 75 percent living and irrigated landscaping material with a maximum of 25 percent nonliving landscaping material. Approved sidewalks are not counted toward the non-living landscape material percentage.
- f. Parking lot design shall incorporate terminal islands at the end of parking row. Divider strips between parking rows shall be used to help disperse the required landscaping throughout the entire parking lot.
- g. Large areas of parking (50 or more spaces) shall be distributed between the back or sides of a building with not more than 50 percent of the parking for the entire property remaining between the principal building and the primary abutting street.
- h. The perimeter of all parking areas shall be buffered from adjacent streets, public rights-of-way, public open space, and adjacent uses by at least one of the following methods:
  - (i) A berm three feet high with a maximum slope of 3:1 in combination with evergreen and deciduous trees and shrubs;
  - (ii) A hedge at least three feet high consisting of a double row of shrubs planted three feet on center along 75 percent of the perimeter length; or
  - (iii) A fence or wall at least three feet high in combination with landscaping.
- i. All plant materials (see Corridor Overlay District Design Guideline Booklet for a listing of preferred plant materials) shall be installed in the following minimum sizes:
  - (i) Deciduous shade trees - 2 inch caliper
  - (ii) Ornamental trees - 2 inch caliper
  - (iii) Evergreen trees - 5 feet high
  - (iv) All shrubs - 5 gallon container
  - (v) Groundcover, annuals, and perennials - 1 gallon container

### E. Landscaping and Buffers

#### (1) Intent

Create an attractive environment along the edges of each development parcel, open space, and pedestrian area, and use landscaping to break-up the apparent size and monotony of parking areas. These provisions are not applicable to single-family residential development.

#### (2) Standards

##### a. Interstate Buffer

- (i) Developments with a site perimeter directly adjacent to the corridor shall provide a landscaped buffer of at least 50 feet wide between the building or parking lot edge and the right-of-way or frontage road. Buffers shall consist of informal clusters of deciduous and evergreen trees and shrubs planted in an offset pattern and shall include a minimum of one tree and 10 shrubs per 25 lineal feet of frontage. See Corridor Overlay District Design Guideline Booklet for a listing of preferred plant materials. Uses inside the buffer may include

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Permitted entrances;  
Underground utilities;  
Pedestrian and bike trails;  
Stormwater management facilities; and  
Frontage roads with a minimum buffer of 40 feet.

(ii) For lots that exist prior to the adoption of these regulations, the following buffer exceptions shall be applied:

If the minimum buffer width exceeds 25 percent of the lot length, the buffer width shall be reduced by half; however, in no case shall the buffer width go below 20 feet.

Where a lot is previously developed and a primary structure encroaches into the minimum buffer area, the building line of the existing structure shall be used as the setback line for future development provided it meets the minimum setback for the zone district.

### Minimum Landscaping

A minimum of 20 percent of a site's total square footage (not including any Interstate Buffer) shall be reserved for landscaping consisting of a variety of trees, turf grasses, shrubs, annual and perennial flower species, mulches, or ground covers.

### Setback Buffer

Building setback areas along all arterial, collector, or local streets as well as private streets and internal drives shall be landscaped with a minimum of one tree for every 40 lineal feet of frontage.

### Plant Materials

(i) A preferred list of plant materials is identified in the Corridor Overlay District Design Guideline Booklet. Additional recommended plant material is provided by the Nebraska State Arboretum and is included as an appendix to the I-80 Design Guidelines developed by the Nebraska Innovative Zone Commission.

Trees shall have an average spread of crown of greater than 15 feet at maturity. Trees having a lesser average mature crown of 15 feet may be substituted by grouping the same so as to create the equivalent of 15 feet crown of spread.

Hedges, where installed, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen which will be three feet high within one year after time of planting.

Upon installation of required landscape materials, each owner shall take actions to ensure continued health and maintenance of such. Required landscaping that does not remain healthy shall be replaced consistent with these regulations.

### Deer Fence

Any deer fence constructed by the Nebraska Department of Roads is exempt from these design standards.

To the maximum extent possible, site landscaping shall include native landscape elements.

To the maximum extent possible, each landscaped area shall promote 'water smart' landscaping through plant material and design.

If native landscape elements are used, these plant materials shall not be permitted to overhang, extend, or encroach onto any private properties or public sidewalks, streets, or alleys that are adjacent to the lot, tract, or parcel on which they are planted.

If native landscape elements are used, these plant materials shall not obstruct, obscure, block, or impede regulatory, warning, or street identification signs or street lighting required to ensure the safe mobility of vehicles and pedestrians on streets, trails, and sidewalks.

If native landscape elements are used, these plant materials must be cut at least once annually between April 15th and July 15th to a height no greater than ten (10) inches.

### F. Development Pattern/Site Layout

#### Intent

Identify standards required to create a pedestrian-oriented scale and appearance within development centers.

#### Standards

To the maximum extent possible, development on larger sites containing multiple buildings shall be composed of a series of "blocks" of development defined by streets and driveways that provide links to adjacent streets along the perimeter of the site.

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New buildings located along a street frontage shall, to the maximum extent feasible, align building walls with existing adjacent buildings and buildings across the street to help create a consistent building edge.

New buildings shall be oriented so that loading bays, docks, and service areas are not visible from the corridor or otherwise screened from view of such corridor with landscape and/or earthen berms or other building materials.

Unless part of a larger planned development or commercial center,

(i) When there is one building with a single tenant, the building's "active" wall shall be oriented toward the primary abutting street; or

(ii) When there is one building with multiple tenants, at least 50 percent of the building's "active" wall shall be oriented toward the primary abutting street.

e. Where there is more than one building in a development, all principal and pad site buildings shall be arranged and grouped so that their primary orientation complements adjacent, existing development and one of the following:

(i) Frames the corner of an adjacent street intersection;

(ii) Frames and encloses a main street pedestrian and/or vehicle access corridor within the development site; or

(iii) Frames and encloses on at least three sides parking areas, public spaces, or other site amenities.

f. To the maximum extent feasible, building layout shall follow and respect the natural topography of the site. Berms, channels, swales, and similar man-made change to the landscape shall be designed and graded to be an integral part of the natural landscape and provide a smooth transition in changes in slope.

### G. Building Design

#### Intent

Provide a high quality architectural character in all commercial, industrial, and multi-family residential developments.

#### Standards

##### a. Building Orientation

Buildings on lots that front the corridor should be oriented to present a front or side view to the highway/interstate corridor. Architectural or landscape features are also encouraged to be located facing the corridor.

##### Four-Sided Design

These standards shall apply to the primary façade of a building, and all sides of the building where visible from public rights-of way, private roads, service drives, adjacent residential properties, and park/recreation areas shall include design characteristics and material consistent with those of the primary façade except as provided. Additional building screening shall be required where certain façade requirements are waived by the city.

##### Building Form

The design of all buildings shall avoid incorporating monotonous, unbroken, flat walls through the use of textured surfaces, projections, recesses, shadow lines, color, window patterns, overhangs, reveals, changes in parapet heights, and similar architectural devices. Buildings having single walls exceeding 50 feet in length shall incorporate two or more of the following at 50 foot intervals:

(i) Changes in color, graphical patterning, changes in texture, or changes in material(s);

(ii) Projections, recesses, and reveals with a minimum change in plane of 24 inches;

(iii) Windows and fenestration;

(iv) Arcades and pergolas;

Towers;

Gable projections;

Horizontal/vertical breaks; or

Other similar techniques.

##### d. Franchise Architecture

Franchise architecture is discouraged in favor of architecturally compatible designs. National "standard," prototype, or trademark designs shall be adapted to be compatible with these standards.

##### e. Building Materials and Colors

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(i) Intense, bright, or fluorescent colors shall not be used as the predominant color on any wall or roof of any primary or accessory structure. These colors may be used as building accent colors but shall not constitute more than 10 percent of the area of each elevation of the building. See Corridor Overlay District Design Guideline Booklet for examples of preferred colors. Permitted sign areas shall be excluded from this calculation.

(ii) Highly reflective or glare producing glass with a reflectance factor of .25 or higher is prohibited on all façades. Such prohibition shall apply whether the glass is used in windows or spandrels areas.

(iii) All building façades visible from the corridor shall be finished with the same mix of materials and colors and the same degree of fenestration and articulation used on the major entry walls that are the front of the building.

### f. Roofs

(i) Roof types shall be related to the building's function and character. Gabled and pitched roofs are more appropriate for one and two-story construction, while more massive buildings are best suited for hipped roofs or flat roofs placed behind a parapet wall.

(ii) Sustainable roofs are encouraged. Buildings with sustainable roofs shall be granted reduced parking lot landscaping or stormwater management requirements or waived on-site parking requirements provided overall required screening and buffering is provided. Sustainable roofs include Cool roofs that for a minimum of 75 percent of the total roof surface have a Solar Reflectance Index (SRI) of 78 or higher for a roof with a slope of 2:12 or less, or 29 or higher for a roof with a slope greater than 2:12; or

A vegetated roof consisting of a minimum of 50 percent of the total roof surface.

### g. Screening and Fencing

(i) Rooftop Equipment and Screening. All rooftop mechanical equipment and vents greater than eight inches in diameter shall be screened. Screening may be done either with an extended parapet wall or a free-standing screen wall. Screens shall be at least as high as the equipment they hide and shall be of a color material matching or compatible with the dominant colors and materials found on the façades of the primary building.

(ii) Service Area and Loading Dock Screening. Loading docks, on-site storage yards, and all other service areas shall be oriented away from the corridor, where possible, and shall be fully screened from view from all public and private rights-of-way by berms, walls, fences, and/or opaque landscaping. Screens shall be of a color material matching or compatible with the dominant colors and materials found on the façades of the primary building. The screen height shall be of sufficient height to hide the equipment, vehicles, materials, or trash being screened from public view, but in no case shall the screen exceed 10 feet. All fencing used for screening within this district and/or as part of a commercial or industrial development shall be required to be a solid fence. Chain link fences, with or without slats, shall not be used to satisfy this screening requirement.

(iii) All residential fencing within this District shall not exceed six feet in height and perimeter privacy fencing within the subdivision fronting the Interstate shall match in style, color, and height. Such fencing shall be a solid fence and chain link fences, with or without slats, shall not be used to satisfy this requirement. If multiple styles and colors exist prior to the adoption of these regulations, then any new fence shall be similar to that style and color used most.

### h. Lighting

Lighting standards and fixtures for the buildings, pedestrian ways, parking areas and drives within the commercial, industrial, and multi-family building areas shall be similar in appearance and quality level as those in the Corridor Overlay District Design Guideline Booklet.

### H. Towers, Alternative Energy, Signs

#### (1) Cell Towers

Within the corridor, the use of stealth cell towers with regionally appropriate design is strongly recommended.

#### (2) Solar Energy

##### a. Purpose

This section is intended to promote the compatible use of solar energy systems and to assist in decreasing Waverly's dependence upon non-renewable energy systems through the encouragement of solar energy systems for the heating of buildings and water.

##### b. Standards



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Solar energy systems shall be a permitted use. Private restrictions on solar energy systems, such as homeowners association covenants or restrictions, are not permitted.

c. Height

In solar retrofit installations, solar energy collectors, storage tanks and equipment, roof ponds, or other solar equipment appurtenant to a solar energy system may exceed by three feet the local maximum height limits. Systems taller than three feet above any maximum height shall be subject to local approval.

d. Setbacks

In solar retrofit installations, solar energy collectors, storage tanks and equipment, roof ponds, or other solar equipment appurtenant to a solar energy system may extend into the required setbacks a maximum of three feet. Systems extending more than three feet into any required setback shall be subject to local approval.

e. Conflict with Other Municipal Policies and Ordinances

Nothing in this subsection does, or is intended to, abrogate the owner's responsibility to meet all other requirements of the city's land use regulations, including, but not limited to, the preservation of private and public views, the quality of architectural design, and the preservation of historic landmark structures.

(3) Small Wind Energy Systems

a. Purpose

This section is intended to promote the compatible use of small wind energy systems. Wind energy is an abundant, renewable, and nonpolluting energy resource. When converted to electricity, it reduces our dependence on nonrenewable energy resources and reduces air and water pollution that result from conventional sources. Distributed wind energy structures also enhance the reliability and power quality of the power grid, reduce peak power demands, and increase local electricity generation.

b. Standards

Small wind energy systems shall be limited to one (1) tower and shall be permitted on lots of at least 20,000 square feet that are not adjacent to residential uses. They are subject to the following requirements:

(i) Setbacks

A wind tower for a small wind system shall be set back a distance of 1.0 times its total height from Any public road right-of-way unless written permission is granted by the governmental entity with jurisdiction over the road;

Any overhead utility lines unless written permission is granted by the affected utility; and

All property lines unless written permission is granted from the affected land owner or neighbor. Written permission must be recorded in the property chain of title and will run with the land.

No part of the system, including guy wire anchors, shall be closer than five feet from any property boundary.

(ii) Access

All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.

The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.

(iii) Lighting

A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration. A light temporarily used to inspect a turbine, tower, and associated equipment is permissible providing said light is only used for inspection purposes and not left on for an extended period of time.

(iv) Decibel Levels

Decibel levels for the system shall not exceed those provided in Section 11.609 of these regulations. Unless provided for, no system shall exceed 55 decibels (Dba) at the boundary of a residential district.

(v) Signs

All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road, shall be prohibited.

(vi) Code Compliance

## SPECIAL AND OVERLAY DISTRICTS

A wind energy structure, including the tower, shall comply with all applicable state construction and electrical codes, and the National Electrical Code as adopted by the city council.

### (vii) Height

The maximum height of a wind energy system shall comply with the underlying zoning district.

The structure shall comply with all applicable Federal Aviation Administration requirements including but not limited to Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations in excess of 200 feet in height and installations close to airports. The system shall also comply with any and all Nebraska aeronautics regulations.

### Met and New Technology

Temporary meteorological (Met) towers shall be permitted under the same standards as a small wind energy system, except that the requirements shall be the same as those for a temporary structure. A permit for a temporary met tower shall be valid for a maximum of three years after which an extension may be granted. Permanent Met towers may be permitted under the same standards as a small wind energy system.

### Commercial Wind Energy Systems

Commercial wind energy systems shall be discouraged from locating within the corridor.

### Signs

Local sign regulations and NAC Title 410, Chapter 3—Sign Permits: NDOR Rules and Regulations Relating to the Control of Advertising in Areas Adjacent to the Highway Beautification Control System shall apply in the corridor, except as modified in this section:

- a. The combined area of all wall signs attached to any façade of a building shall not exceed twenty five percent of the façade area of the building (including doors and windows).
- b. Roof signs are not permitted, and wall signs shall not extend beyond the top edge of any façade of the building.
- c. Projecting signs shall not project over public property more than 1/3 the distance from the building to the curb and not project into a public alley or public parking lot. A sign shall not project over the street line. Projecting signs shall fit within the architectural features of the building and be a minimum of eight feet above the ground.
- d. Projecting signs shall not exceed 15 square feet per building face.
- e. Window signs shall consist of lettering applied to the interior of display windows.
- f. Window signs shall not fill up more than 20 percent of the window area and shall be limited to letters of 8 inches or less in height.
- g. Billboards shall be limited to a minimum setback of 660 feet, and all other regulations of the underlying zoning district shall apply.
- h. Pole signs shall be limited to on premise only, and all other regulations of the underlying zoning district shall apply.
- i. All freestanding signs shall be monument signs (i.e., the lower edge of the sign is attached to a foundation with no visible air space in between the lower edge of the sign face and the foundation) constructed of materials that are similar to or are compatible in quality and appearance with the primary materials used on primary buildings on the site. The addition of skirting between the lower edge of the sign face and the foundation of a pole sign, in order to avoid visible air space between the two, is prohibited.
- j. The maximum height of a monument sign shall be 12 feet above grade along the I-80 corridor and eight feet above grade for internal streets, and the maximum sign face of a monument sign shall be 24 square feet or comply with the regulations of the underlying zoning district of which the stricter of the two shall apply. If the monument sign is oriented approximately perpendicular to the street frontage, or if it is located diagonally on a corner lot in order to be seen from two streets, it may contain a sign face of up to 24 square feet on each of its two sign faces. Maximum sign areas shall apply to each lot or parcel and not per street frontage or per user.

## 2. Multi-family Residential development

### Intent

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These standards focus on creating a cohesive development pattern for multi-family development that reflects local design themes and provides an inviting living area for residents.

### Standards

#### Preferred Location

Multi-family development shall be located within or adjacent to commercial activity centers where a wide range of services exist or are planned for the future.

a. Multi-family development shall be generally located and set back from the corridor and local interchanges by at least one-quarter mile (1,320 feet).

b. Multi-family development shall be buffered and screened from the corridor with landscape or fencing materials.

(i) Landscape materials shall comply with those prescribed herein.

Fencing shall be of uniform design and materials for each subdivision adjacent to the corridor.

#### (2) Open Area Standards

a. A minimum of 30 percent of the gross development area within a subdivision plat or site plan shall be designated as open areas. The open areas shall be located to

(i) Protect the types of areas identified herein (Protection of Natural Features, Resources, and Sensitive Areas);

(ii) Comply with local landscaping regulations; and

(iii) Create courtyards or other internal configurations whenever possible.

b. All groupings of 50 or more multi-family units shall have access to at least one the following amenities, and all groupings of 100 or more multi-family units shall have access to at least two of the following amenities:

(i) A recreational facility, such as a tennis court, picnic area, or volleyball court.

(ii) A swimming pool.

(iii) A plaza area with benches focused on a water feature or work of art.

(iv) Residential clubhouse space.

(v) Playground/play area

#### (3) Parking Design

a. Where allowed, parallel parking spaces on public and private streets within multi-family development may be used to meet the requirements for guest parking.

b. To minimize exterior surface parking, at least 40 percent of residential parking shall be in garages.

c. Where detached garages are used, they shall be faced with the same mix and percentage of materials as the primary structure.

#### (4) Building Design

##### a. Massing and Articulation

(i) All multi-family buildings shall be designed to provide complex massing configurations with a variety of different wall planes and roof planes. Large multi-family structures shall provide changes in wall and roof planes in 50 foot intervals.

(ii) Buildings shall be horizontally articulated at every two floors through the use of decorative banding, a change in siding material and/or color, or sloping roof planes.

(iii) The façades of single-family attached townhouses or row houses shall be articulated and provided with different façades to differentiate individual units.

##### b. Building Length

(i) The maximum length of any multi-family residential building shall not exceed 200 feet.

(ii) No more than 8 single-family attached townhouses or row houses shall be attached in a single row or building cluster.

##### c. Four-Sided Design

All sides of a building open to view by the public, whether from public or private property, shall display a similar level of quality and architectural interest.

##### d. Windows

(i) All elevations on multi-family buildings shall contain windows.

(ii) Windows shall be of a similar size, shape, and architectural character to those traditionally found in the neighborhood or community.

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### e. Additional Standards

- (i) Multifamily structures taller than two stories shall provide a gradual height transition by “stepping-down” to meet the approximate height of adjacent single-family homes or other structures of a lesser height.
- (ii) Exposed concrete foundations shall not be permitted where visible from the street.
- (iii) Roof forms and treatments shall be similar to those found on similar structures in the neighborhood or community.

### 3. Commercial and Mixed Use Development

#### A. Intent

These standards focus on the development of commercial and mixed-use development at a scale that meets local needs with design elements that are geared to a human scale with a site balance between pedestrian and vehicle preferences.

#### B. Standards

##### (1) Preferred Location

Commercial and Mixed-Use development shall be concentrated within activity centers at an interchange. These uses shall not be developed in a linear strip along frontage roads.

##### (2) Building Design

###### a. Exterior Building Materials

(i) Permitted exterior building materials shall be high quality, durable materials that include, but are not limited to, brick; native or manufactured stone (Renaissance stone or similar masonry materials); integrally colored, burnished, textured, or glazed concrete masonry units; pre-finished metal panel systems; quality metals such as copper; high quality pre-stressed concrete systems; tilt-up concrete panels with an architectural finish; and drainable (water managed) EIFS. Pre-finished metal panel systems may be used as a trim material on the side of the building oriented to the corridor or other public street covering no more than 30 percent of the façades of such buildings.

(ii) The following exterior materials are prohibited: split shakes, rough-sawn wood; painted concrete block; tilt-up concrete panels without an architectural finish; field-painted or pre-finished standard corrugated metal siding; standard single- or double-tee concrete systems; or barrier type EIFS. Any of these materials may be used as accent materials provided they do not exceed 10 percent of the associated façade.

(iii) Materials on all sides of the building shall be consistent with materials and colors of the front façade when visible from public streets and trails and adjacent residential areas. See Corridor Overlay District Design Guideline Booklet for examples of preferred colors.

###### b. Pedestrian Scale Details

To promote a sense of human scale, special accent materials and design details shall be incorporated into all first floor façades and paving areas abutting pedestrian walkways. Such features shall include, but are not limited to, the following:

(i) Changes in paving patterns and materials at pedestrian building entrances and other significant pedestrian locations;

(ii) Special decorative wall patterns, textures, accent materials, or graphics;

Reveals;

Special architectural features marking pedestrian entries; and

Display windows (Darkly tinted and mirrored windows are prohibited as ground floor windows or doorways).

In addition, the following shall apply:

All pedestrian circulation design and building access shall be ADA compliant.

The development and layout of internal street systems shall promote pedestrian linkage, accessibility, and interconnectivity among commercial uses within a development.

All pedestrian walkways shall be designed to maximize access to commercial entryways, places of social interaction, parks, and parking areas.

###### c. Common Architectural Theme

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All use, buildings, and areas in a commercial or mixed-use development shall share common architectural and landscaping themes, materials, and styles. Each commercial or mixed-use development shall create its own identity with unique design themes based on a palette of compatible rooftops, materials, and colors. Both pads and anchor stores shall incorporate all such thematic design, materials, landscaping, roof types, and colors.

(i) Highly visible commercial entryways are required to incorporate canopies, awnings, outdoor patios, arcades, display windows, and/or overhangs.

(ii) All new commercial buildings shall be constructed with a base, middle, and top. Each component shall be articulated through horizontal and/or vertical articulation which may consist of changes in the wall plane, use of openings and projections, material changes, and/or color variations.

### d. Building Height

Structures shall not exceed the height requirement of the underlying zoning district. Where there is no height requirement, all commercial units shall maintain existing scale of surrounding structures

### e. Building Orientation

The main or front façade of all commercial units shall orient to a public street/road.

## (3) Big Box Retail Standards

### a. Applicability

These standards are applicable to all single-story retail buildings containing 65,000 square feet or more of gross floor area.

### b. Façade Articulation

Each façade greater than 50 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least two feet and extending at least 20 percent of the length of the building.

### c. Façade Design

Each building façade shall have a repeating pattern that includes no fewer than three instances of

(i) Color change;

(ii) Texture change;

(iii) Material change; or

(iv) Expression of an architectural or structural bay through a change in plane no less than 12 inches in width.

At least one of those elements shall repeat horizontally at an interval of no more than 30 feet.

### d. Concealing Equipment

Each building shall have either (i) overhanging eaves extending at least three feet past supporting walls, or (ii) parapets to conceal rooftop equipment from public view. If parapets are incorporated, they shall have an average height of no more than 15 percent of the supporting wall, a maximum height at any point equal to 33 percent of the height of the supporting wall, and three-dimensional cornice treatments.

### e. Customer Entrances

Each building shall have clearly defined, highly visible customer entrances featuring at least three of the following elements:

(i) Canopies or porticoes;

(ii) Overhangs;

(iii) Recesses or projections;

(iv) Arcades;

(v) Arches;

(vi) Peaked roof forms;

(vii) Outdoor patios;

Display windows;

(ix) Architectural tile work or moldings integrated into the building design; or

(x) Integrated planters or wing walls that incorporate landscaped areas or seating areas.

### f. Outdoor Amenities

Each site containing a big box retail building shall provide at least two of the following within a public area that measure at least 1,000 square feet:

(i) Patio or seating area;

(ii) Pedestrian plaza with benches;

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- (iii) Transit stop;
  - (iv) Window shopping walkway;
  - (v) Outdoor playground;
  - (vi) Water feature; or
  - (vii) Other deliberately shaped and highly visible outdoor amenity such as public art.
4. Industrial Development

### Intent

This section is intended to provide minimum design standards to ensure that where industrial development occurs with other development types, the industrial structures are designed in keeping with the overall development pattern.

### Standards

#### (1) Building Design

- a. Concrete tilt-up buildings are allowed subject to the following standards:

Panels shall be embossed with reveals that repeat a common pattern.

All elevations visible from a public or private street shall include variable parapet heights and two feet minimum projections with the distance between not to exceed 60 feet.

All main entries (or storefronts) shall be identified by the use of an arcade, covered entry, spandrel glass, or other similar architectural feature.

- b. Metal is prohibited as a primary exterior surface material on industrial buildings (including manufacturing, storage, distribution, or assembly buildings) on the side of the building oriented to the corridor or other public street. Metal may be used as a trim material on the side of the building oriented to the corridor or other public street covering no more than 30 percent of the façades of such buildings.

#### (2) Landscaping - Exterior Boundaries

A landscaped buffer of a minimum of 25 feet in width shall be maintained within and along the exterior boundaries of any industrial development or industrial park except those portions of the boundaries adjacent to dedicated public streets and alleys.

#### (3) Landscaping - Developed Lots

All of a developed lot except that portion covered by buildings, parking lots, and driveways shall be landscaped. Landscaping may consist of grass, trees, decorative walls, screenings, terraces, fountains, pools, or other landscaping approved by the City of Waverly. Proposed landscaping shall be included upon the preliminary plat. Landscaping in accordance with the approved final plat and subdivision agreement is mandatory.

#### (4) Outdoor Waste Storage - Screened From View

Outdoor storage of waste material or refuse and all refuse collection bins, cans, or other containers shall be concealed from view such that the same cannot be seen from any point under ten feet in height outside of the district, or from any point indoors or outdoors, on adjoining property within the district.

#### (5) Landscaping - Interior Property Lines

A landscaped buffer of a minimum of ten feet in width shall be established and maintained along the interior of property lines of all lots in any industrial park except for those areas used for ingress and egress to the property through curb-cuts opening onto dedicated public streets and alleys.

### 11.555 Definitions

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

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"Appeal" means a request for a review of the Zoning Administrator's interpretation of any provision of this ordinance or a request for a variance.

"Area of Shallow Flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Base Flood" means the flood having one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Development" means any man-made 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 or storage of equipment or materials.

"Existing Construction" means (for the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures."

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The usual and rapid accumulation of runoff of surface waters from any source.

"Flood Fringe" is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year).

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

"Floodplain" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"Floodway" or "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

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"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New Construction" For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

"Overlay District" is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure is above ground.

"Recreational Vehicle" means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Special Flood Hazard Area" is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.



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"Start of Construction" [for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348)] includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Variance" means a grant of relief to a person from the terms of a floodplain management ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.