

## CHAPTER 3: SUPPLEMENTARY DISTRICT REGULATIONS

### ARTICLE 1: SUPPLEMENTARY DISTRICT REGULATIONS

#### **3-1.1. HEIGHT USE REGULATIONS**

Chimneys, cooling towers, elevator head-houses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, and spires, church steeples, radio and television towers, antennas, or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the District regulations. In all districts, two (2) additional feet of height above the specified height limitation shall be permitted for each one foot of additional front yard provided over the minimum requirements.

#### **3-1.2. YARD REGULATIONS**

- A. Front Yards. The front yards in residential districts only heretofore established shall be adjusted in the following cases:
1. Where a building is to be erected on a parcel of land that is within one hundred (100)-feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the closest front corners of adjacent buildings on the two sides; or
  2. Where a building is to be erected on a parcel of land that is within one hundred (100)-feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.
- B. Yard Exceptions. A deck, porch, patio, or similar type use that is attached to or adjacent to the principal use of the property may extend five (5)-feet into the front yard, rear yard, and/or street side yard. However, no exceptions shall be allowed for the side yard.

#### **3-1.3. NUMBER OF STRUCTURES AND USES ON ZONING LOTS**

Where a lot or tract is used for other than a residential dwelling, more than one principal uses and structure may be located upon the lot or tract, but only when the building or buildings conform to all requirements for the district in which the lot or tract is located.

#### **3-1.4. SIGHT TRIANGLE**

On a corner lot in all districts, except the "C-1" General Commercial District, development shall conform to the requirements of the sight triangle as defined by this regulation.

#### **3-1.5. ACCESS TO COMMERCIAL AND INDUSTRIAL DISTRICT**

No land which is located in a residential district shall be used for a driveway, walkway or access to any land which is located in any Commercial or Industrial district.

#### **3-1.6. HOME OCCUPATIONS**

Home-based businesses and home occupations are permitted as an accessory use in residential units, subject to the following regulations:

- A. Restrictions and Limitations.
1. No outdoor storage of materials or equipment used in the home occupations shall be permitted.
  2. No alteration of the exterior of the principal residential building or accessory building shall be made which changes the character thereof as a residence. The home occupation shall be carried on entirely within the principal or accessory structures.
  3. Signage for home occupations is allowed following the type and size requirements outlined in the particular zoning district. The following additional regulations shall apply to signage used for home occupations:

- a. No sign shall be maintained at any locations where by reason of its position, size, shape, or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic or railroad control sign, signal, or device, or where it may interfere with, mislead, or confuse traffic.
  - b. Approval by State of Nebraska, Department of Roads, on State Application forms must be submitted with application, if necessary for signs located on property adjacent to the highway.
  - c. The sign shall not interfere with the sight triangle for traffic or interfere with traffic view and safety.
  - d. Sign must be attractive and maintained by owner.
  - e. If home occupation no longer exists the sign shall be removed.
4. No equipment shall be utilized that creates a nuisance due to noise or electrical interference.
- B. Particular Home Occupations Permitted. Customary home occupations include, but are not limited to, the following list of occupations; provided, however, that each listed occupation is subject to the requirements of this Ordinance.
1. Art, Dancing, and Music Schools, provided that Instruction is Limited to Five (5) Pupils at one Time.
  2. Child Care Homes.
  3. Electronics Repair.
  4. Fitness/Personal Trainer (one on one).
  5. Home Crafts and Hobbies Such as Model Making, Rug Weaving, Lapidary Work, Cabinet Making, Etc.
  6. Home Party Products.
  7. Internet Service, Website Design, Website Maintenance, and Other Related Tasks.
  8. Lock-Smith.
  9. Massage Therapy Parlor (appointment only).
  10. Offices for Realtors, Insurance Agents, Brokers, Sales Representatives, and Manufacturing Representatives when no Exchange of Tangible Goods is Made on the Premises.
  11. Professional Offices for Architects, Engineers, Planners, Lawyers, Accountants, Bookkeepers, and Similar Professions.
  12. Radio, Television, Phonograph, Recorder, and Small Appliance Repair Service.
  13. Saw-Filing.
  14. Tailoring, Alterations, and Seamstresses.
  15. Alternative home occupations, not prohibited below, may be approved as a Conditional Use which requires the application be brought before the Planning Commission and Village Board.
- C. Particular Home Occupations Prohibited. Home occupations shall not in any event, include the following:
1. Any use which by its flow of vehicular traffic creates an unsafe, hazardous, or congested traffic condition.
  2. Automobile, truck, and vehicle repair services.
  3. Diesel Repair, Saw Mill, Small-Engine Repair.
  4. Equipment Rental.
  5. Groceries – Retail.

6. Machine Shops.
7. Restaurants.

### **3-1.7. TEMPORARY USES PERMITTED**

- A. Street Sales. The retail sale of merchandise not within an enclosed structure for a period not to exceed three (3) days. Street sales displays need not comply with the yard and setback requirements of these regulations, provided that no merchandise shall be displayed in the sight triangle.
- B. Christmas Tree Sales. Christmas tree sales in any business or industrial district for a period not to exceed sixty (60) days. Display of Christmas Trees need not comply with the yard and setback requirements of these regulations, provided that no trees shall be displayed within the sight triangle.
- C. Contractor's Office. Contractor's offices (containing no sleeping or cooking accommodations) accessory to a construction project and to continue only during the duration of such project.
- D. Real Estate Offices. Real estate offices (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing development to continue only until the sale of lease of all dwelling units in the development.
- E. Seasonal Sales. Seasonal sale of farm produce is allowed as a temporary use. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used. All permanent structures must comply with the front yard requirements.
- F. Carnivals and Circuses. Carnivals and circuses must be approved by the Village Board. Such use need not comply with the front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall conform to the requirements of the sight triangle as defined by these regulations.
- G. Garage or Porch Sales. The sale of used or second-hand merchandise shall be permitted in any district providing that such use shall not exceed three (3) consecutive days in duration nor shall it occur more than twice each year at any particular location. A two (2)-foot by three (3)-foot sign shall be permitted during the duration of the sale.

### **3-1.8. OPEN STORAGE**

The storage of salvage or scrap materials, inoperable motor vehicles, house hold goods or furniture, or business equipment or materials for more than forty-eight (48) consecutive hours shall not be allowed in any residential district unless such items are stored in a completely enclosed building.

### **3-1.9. DETERMINATION OF BUILDING SETBACK LINE**

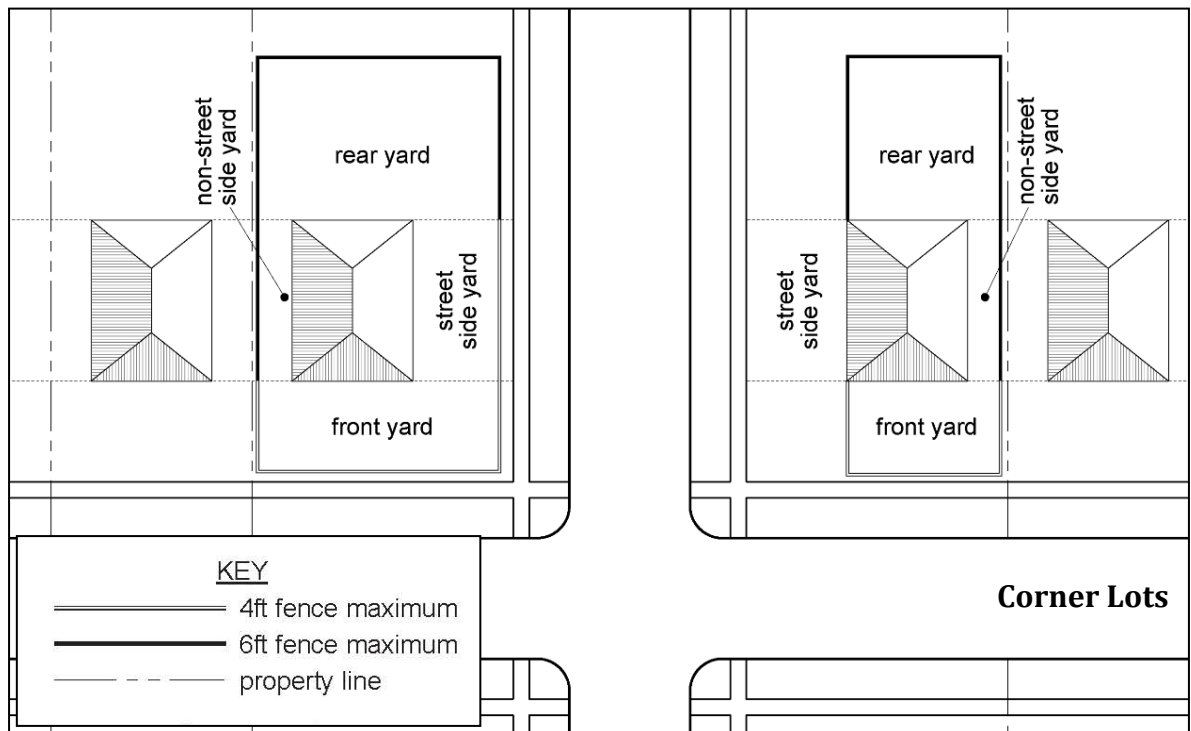
The building setback line shall be determined by measuring the horizontal distance between the property line and the existing or proposed main structure nearest the property line.

### **3-1.10. FENCES, HEDGES, AND WALLS**

Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences in residential districts within the corporate limits of Clearwater:

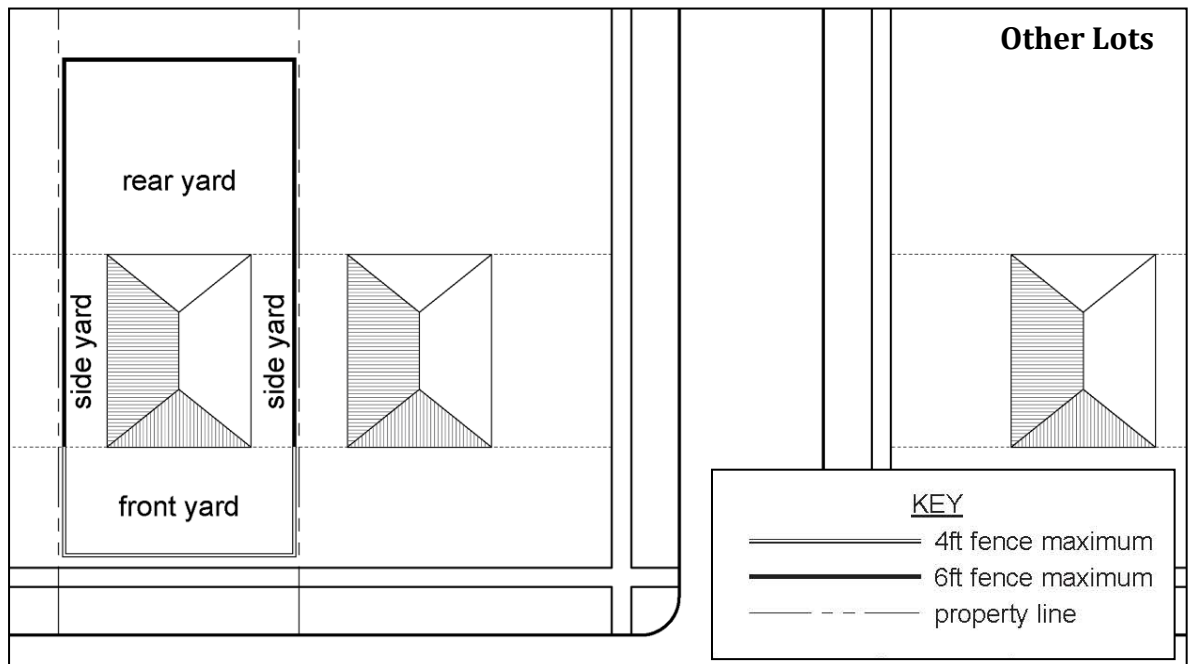
- A. All fences must remain on the property and not extend beyond your property lines.
- B. It is recommended to have your property surveyed by a licensed surveyor to positively identify and mark your property lines to avoid dispute. Property owners are responsible to locate property pins prior to any permit being issued. The Village of Clearwater does not mediate disagreements between owners of private property.
- C. Permit Holder is responsible for calling Diggers Hotline of Nebraska prior to start of construction. The Permit Holder is responsible for scheduling all required inspections.
- D. No fence shall be constructed which will constitute a traffic hazard.

- E. No fencing shall conflict with the requirements of the clear vision area for streets and driveways. Fencing within a vision clearance shall not create a visual obstruction.
- F. Installation of a fence may not obstruct any manhole or inlet cover nor disturb or impede existing drainage pattern/swale or natural water flow.
- G. Any fence, hedge, or wall shall provide access to utility workers for meter reading and maintenance of the utility.
- H. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.
- I. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation or which fence shall adversely affect the public health, safety, and welfare.
- J. Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning or missing sections, broken supports, non-uniform height, and growing or noxious vegetation. The Village may order any dilapidated, dangerous, or non-conforming fence removed at the owner's expense.
- K. A fence height shall be measured from the top of the fence to the lowest point at the base of the fence.
- L. Fences in a front yard shall contain openings constituting a minimum of fifty percent (50%) of the surface area and shall be situated or constructed in such a way as not to obstruct the vehicular traffic or otherwise create a traffic hazard.
- M. Fences shall not be closer than six (6)-inches to any property line. Perennial plantings shall not be planted closer than two and one-half (2 ½)-feet to any property line. All setbacks for fences, hedges, and walls must be adhered to as per the zoning district's regulations, if there are different regulations outlined in said zoning district.
- N. The finished side of the fence must face to the outside of the property. Visible supports and other structural components shall face in toward the owner's property.
- O. Fences shall be constructed of commonly accepted, material for residential fences such as wood, plastic, vinyl, PVC/resin, concrete, stone, masonry, wrought iron, aluminum, chain link, or any other similar type fencing material; shall be structurally sound; shall have a neat, professional, and finished appearance.
- P. Fences shall not be constructed of material not commonly used for residential fences such as wooden pallets, chicken wire, corrugated metals, strong barn, or galvanized tin.
- Q. The maximum height for fences, hedges, and walls shall be as follows:
  - 1. **Corner Lots:**
    - a. *Front Yard.* Forty-eight (48)-inches or four (4)-feet in height.
    - b. *Street Side Yard.* Forty-eight (48)-inches or four (4)-feet in height.
    - c. *Non-Street Side Yard.* Seventy-two (72)-inches or six (6)-feet in height from the rear property line to the front corner of the house, then forty-eight (48)-inches or four (4)-feet in height.
    - d. *Rear Yard.* Seventy-two (72)-inches or six (6)-feet in height from the rear property line to the front corner of the house, then forty-eight (48)-inches or four (4)-feet in height on street side yard.



**2. Other Lots:**

- a. *Front Yard.* Forty-eight (48)-inches or four (4)-feet in height.
- b. *Side Yard.* Seventy-two (72)-inches or six (6)-feet in height from rear property line to the front corner of the house, then forty-eight (48)-inches or four (4)-feet in height.
- c. *Rear Yard.* Seventy-two (72)-inches or six (6)-feet in height.



*Note: These regulations apply only to new construction; any non-conforming fences, unless dilapidated and/or dangerous shall not be affected. No fence shall be erected, constructed, or moved until a building permit has been procured from the Village. Application for a fence building permit shall include a sketch of the lot, the location of any buildings on the lot, the proposed fence, and sufficient dimensions to accurately locate these features.*

### **3-1.11. RECREATIONAL VEHICLE STORAGE**

Major recreational equipment such as boats, boat trailers, travel trailers, pickup campers, coaches, charter busses, motor homes, camping buses or converted trucks, tent trailers and other similar vehicles shall not be stored in a residential district except in a rear yard. The storage of said recreational vehicles shall not obstruct vehicular or pedestrian view.

- A. On a corner lot, such equipment shall be kept back of the front setback lines on both street sides.
- B. No such recreational equipment shall be utilized for living, sleeping, or housekeeping purposes when parked on a residential lot or in any location not approved for such use.
- C. In those cases where compliance with the above regulation is impossible due to lack of access to a rear yard, the Village Board may, after public hearing, issue a Conditional Use Permit to allow certain specified deviations.

### **3-1.12. MOBILE/MANUFACTURED HOMES**

All mobile/manufactured homes located within the corporate limits of Clearwater shall meet the following standards:

- A. The home shall have no less than nine hundred (900) square feet of floor area.
- B. The home shall have no less than an eighteen (18) foot exterior width.
- C. The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.
- D. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single family construction.
- E. The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.
- F. The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
- G. Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.
- H. The home must meet building code requirements adopted by the Village.
- I. The home shall be set on a permanent masonry or concrete foundation.

Mobile/manufactured homes that do not meet the above requirements can be located within a mobile home park designated by the Village of Clearwater.

## CHAPTER 4: CONDITIONAL USES AND REGULATIONS

### ARTICLE 1: CONDITIONAL USE REGULATIONS

#### 4-1.1. CONDITIONAL USES

- A. Definition. Conditional uses are those type of uses which, due to their nature, are dissimilar to the normal uses permitted within a given zoning district or where the product, process, mode of operation, or nature of business may prove detrimental to the health, safety, welfare or property values of the immediate neighborhood and its environs. Within the various zoning districts, conditional uses specifically listed in the district regulation, may be permitted only after additional requirements are complied with as established within this section.
- B. Procedure. The consideration of a conditional use permit application shall be handled in the same manner as a zoning amendment regarding the requirements for public hearing, notices, protests and action by the Planning Commission and Governing Body.
- C. Minimum Requirements. A conditional use permit shall not be granted unless specific written findings of fact directly based upon the particular evidence presented support the following conclusions:
1. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations, and use limitations.
  2. The proposed conditional use at the specified location will not adversely affect the welfare or convenience of the public.
  3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
  4. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
    - a. The location, nature and height of buildings, structures, walls, and fences on the site, and
    - b. The nature and extent of landscaping and screening on the site.
  5. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.
  6. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
  7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
- D. Additional Requirements. In granting a conditional use, the Village Board may impose such conditions, safeguards and restrictions upon the premises benefited by the conditional use as may be necessary to reduce or minimize any potential injurious effect of such conditional uses upon other property purpose and intent of these regulations.
- E. Kennels – Breeding and Boarding. All kennels must comply with the following minimum requirements for a conditional use permit:
1. All kennels shall be located at least one thousand three hundred twenty (1,320)-feet from a residential district.
  2. The maximum lot size is one (1)-acre.