

**(Recodified by Ordinance No. 1733 8/7/2006)**

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# BASIC PROVISIONS

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**01**

## **ARTICLE ONE BASIC PROVISIONS**

### **1-1 Title**

Chapter 11 of the Plattsmouth Municipal Code shall be known as the Zoning Ordinance of the City of Plattsmouth.

### **1-2 Jurisdiction**

The provisions of this chapter shall be applicable to all property within the corporate limits of the City of Plattsmouth and its two-mile extra-territorial jurisdiction as provided by Section 14, Revised Statutes of Nebraska, 1943.

### **1-3 Purpose**

The purposes of the Zoning Ordinance of the City of Plattsmouth are to:

- A. Serve the public health, safety, and general welfare of the city and its jurisdiction.
- B. Classify property in a manner that reflects its suitability for specific uses.
- C. Provide for sound, attractive development within the city and its jurisdiction.
- D. Encourage compatibility of adjacent land uses.
- E. Protect environmentally-sensitive areas.
- F. Further the objectives of the Comprehensive Development Plan of the City of Plattsmouth.

### **1-4 Consistency with Comprehensive Development Plan**

The City of Plattsmouth intends that this Zoning Ordinance and amendments thereto shall be consistent with the City's Comprehensive Development Plan.

### **1-5 Conflicting Provisions**

The Zoning Ordinance shall be held to provide the minimum requirements necessary for the promotion of health, safety, and welfare. If any provision of the Zoning Ordinance conflicts with any other provision of the Zoning Ordinance, any other Ordinance of the City of Plattsmouth, or any applicable state or federal law, the more restrictive provision shall apply.

### **1-6 Relief from Other Provisions**

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, state, or federal ordinance or statute.

### **1-7 Severability of Provisions**

If any chapter, section, subsection, clause, or phrase of this Zoning Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

# DEFINITIONS

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02

## ARTICLE TWO DEFINITIONS

### 2-1 Purpose

Article Two shall be known as "Definitions." The purpose of these provisions is to promote consistency and precision in the interpretation of the Zoning Ordinance. The meaning and construction of words as set forth shall apply throughout the Zoning Ordinance, unless where modified in a specific section or where the context of such words or phrases clearly indicates a different meaning or construction.

### 2-2 General Construction Language

The following general rules of construction apply to the text of this chapter:

- A. Headings: Section and subsection headings contained herein are provided for illustrative purposes only and shall not be deemed to limit, govern, modify or otherwise affect the scope, meaning, or intent of any provision of this chapter.
- B. Illustration: In the case of any real or apparent conflict between the text of this chapter and any illustration explaining the text, the text shall apply.
- C. Shall and May: "Shall" is always mandatory; "may" is discretionary.
- D. Tenses and Numbers: Words used in the present tense include the future tense. Words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. Conjunctions: Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
  - 1. "And" indicates that all connected items or provisions apply.
  - 2. "Or" indicates that the connected items or provisions may apply singly or in any combination.
  - 3. "Either ... or" indicates that the connected items or provisions shall apply singly but not in combination.
- F. Referenced Agencies: Unless otherwise indicated, all public officials, bodies, and agencies referred to in this chapter are those of the City of Plattsburgh.

### 2-3 Definitions of Terms

For the purposes of this Zoning Ordinance, certain terms and words are hereby defined. Certain sections contain definitions which are additional to those listed here. Where terms are not specifically defined, their ordinarily accepted meanings or meanings implied by their context shall apply.

### 2-4 A

- 1. Abutting: Having lot lines or district boundaries in common, including property separated by a public street or alley. Used interchangeably with adjacent.

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2. Accessory Structure: A structure which is incidental to and customarily associated with a specific principal use or building on the same site.
3. Accessory Use: A use which is incidental to and customarily associated with a specific principal use on the same site.
4. Adjacent: Having lot lines or district boundaries in common, including property separated by a public street or alley; used interchangeably with "abutting or contiguous."
5. Addition: Any construction which increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.
6. Agent of Owner: Any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.
7. Alley: A public right-of-way which is used as a secondary means of access to abutting property.
8. Alteration: Any construction to the internal arrangement of spaces, the supporting members, the positioning on a site, or the appearance of a building or structure.
9. Attached: Having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway, facade wall extension, or archway.
10. Accessory Portable Classroom: a manufactured structure used exclusively for instruction, and located on the site of an existing primary or secondary educational facility. **(Enacted by Ordinance No. 1770 7/7/2008)**

### 2-5 B

1. Basement: A level of a building below street level that has at least one-half of its height below the surface of adjacent ground. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement.
2. Base Zoning District: A district established by this Ordinance to prescribe basic regulations governing use and site development standards. No more than one base district shall apply to any individually platted lot or parcel.
3. Beginning of Construction: The initial incorporation of labor and materials within the foundation of a building or structure.
4. Block: An area of land within a subdivision that is entirely bounded by streets, by streets and the exterior boundaries of the subdivision, or by a combination of the above with a watercourse or lake, and which has been designated as such on a plat for the purposes of legal description of a property.
5. Block Face: The property abutting one side of a street and lying between the two nearest intersection streets, or between the one nearest intersecting street and a major physical barrier, including, but not limited to, railroads, streams, lakes, or the corporate limits of Plattsmouth.
6. Board of Adjustments: A body, established by the city, pursuant to Nebraska R.R.S. §§ 19-901 through 19-914, expressly for the purpose of granting relief from situations of hardship

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and to hear appeals as provided by this chapter.

7. Bufferyard: A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.
8. Building: A structure having a roof and built to provide shelter, support, or enclosure for persons or property.
9. Building Coverage: The area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.
10. Building Envelope: The three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.
11. Building Line: The outer boundary of a building established by the location of its exterior walls.
12. Building Official: The designee of the City Council, responsible for supervision and operation of the building and land use regulations of the City of Plattsmouth.
13. Business: Activities that include the exchange or manufacture of goods or services on a site.
14. Business Center: A building containing more than one commercial business, or any group of non-residential buildings within a common development, characterized by shared parking and access.

### 2-6 C

1. Certificate of Occupancy: An official certificate issued by the Building Official or his/her designee, indicating conformance with the zoning regulations and other applicable ordinances of the city and authorizing legal use of the premises for which it is issued.
2. Change of Use: The replacement of an existing use by a new use.
3. City: The City of Plattsmouth, Nebraska.
4. City Council: The City Council of Plattsmouth, Nebraska.
5. Cluster: A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.
6. Cluster Development: A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space or the preservation of historically- or environmentally-sensitive features.
7. Collector Street: A street connecting neighborhoods within the same communities, designed to carry traffic from local to arterial streets.
8. Common Area: An area held, designed, and designated for common or cooperative use within a development.
9. Common Development: A development proposed and planned as one unified project not separated by a public street or alley.

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10. Common Open Space: Land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the development.
11. Compatibility: The degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.
12. Comprehensive Plan: The duly adopted Comprehensive Development Plan of the City of Plattsmouth.
13. Condominium: A real estate ownership arrangement that combines fee simple title to a specific unit and joint ownership in common elements shared with other unit owners. Types of units may include dwelling units, parking spaces, office spaces, or commercial spaces.
14. Conservation Subdivision: A type of cluster subdivision that maintains environmentally-sensitive areas as common or private open space, while clustering development in areas that have fewer environmental limitations.
15. County: Cass County, Nebraska.
16. Courtyard: An open, unoccupied space, bounded on two or more sides by the walls of the building.
17. Conventional Subdivision: A subdivision which literally meets all nominal standards of Chapter 170, Subdivision of Land, for lot dimensions, setbacks, street frontage and other site development regulations.
18. Cul-De-Sac: A local street having one end open to vehicular traffic and the other end permanently closed with a vehicular turnaround.

### 2-7 D

1. Density: The amount of development per specific unit of a site.
2. Drive-in Services: Uses which involve the sale of products or provision of services to occupants in vehicles.
3. Detached: Fully separated from any other building or jointed to another building in such a manner as not to constitute an enclosed or covered connection.
4. Driveway: A permanently-surfaced area providing vehicular access between a street and an off-street parking or loading area.
5. Dwelling Unit: One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

### 2-8 E

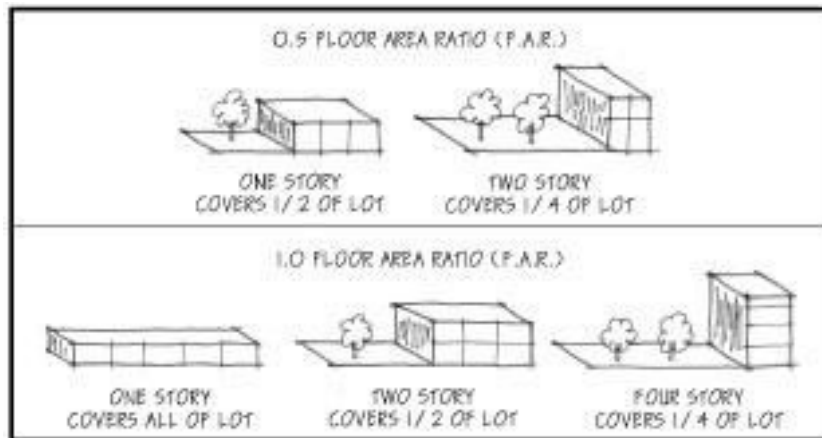
1. Easement: A privilege or right-of-use granted on, above, under, or across a particular tract of land by one owner to another.

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2. Enclosed: A roofed or covered space fully surrounded by walls.

### 2-9 F

1. Family: One or more persons living together and sharing common living, sleeping, cooking, and eating facilities within an individual housing unit, no more than three of whom may be unrelated. The following persons shall be considered related for the purpose of this chapter:
- Persons related by blood, marriage, or adoption.
  - Persons residing with a family for the purpose of adoption.
  - Not more than eight persons under 19 years of age, residing in a foster house licensed or approved by the state of Nebraska.
  - Not more than eight persons 19 years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the State of Nebraska.
  - Person(s) living with a family at the direction of a court.
2. Federal: Pertaining to the government of the United States of America.
3. Floor Area Ratio: The quotient of gross floor area divided by gross site area.



4. Frontage: The length of a property line of any one lot or premise abutting on a public street or other public or private street or way that provides principal access to the lot, measured from the points at which the side lot lines intersect the street property line. On corner lots, each yard adjacent to a street is a front yard.

### 2-10 G

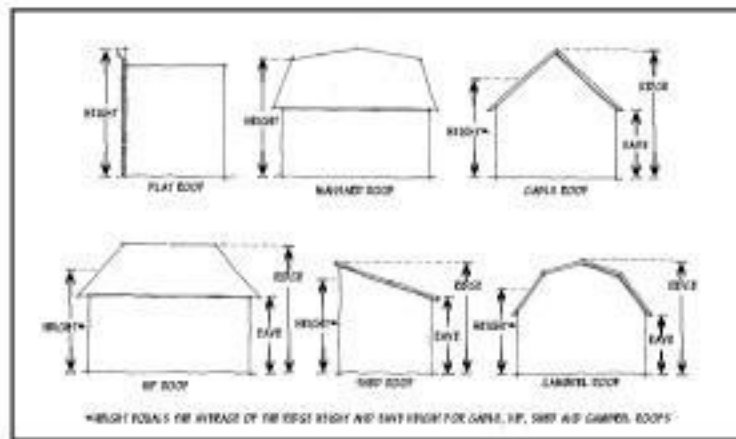
1. Grade: The horizontal elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.
- For buildings having walls facing one street only, the grade shall be the elevation of the sidewalk at the center of the wall facing the street.
  - For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.
  - For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.

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2. Gross Floor Area: The total enclosed area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of basements, elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use.

### 2-11 H

1. Hard Surface: A ground surface covered with cobblestones, flagstone, bricks, sectional paver units, poured concrete, asphalt, asphaltic concrete, or other material that provides a stable, relatively impervious surface. Sectional pavers that include perforations permitting the growth of grasses or vegetation (such as Grasscrete) also fall under the definition of hard surfaces. A graded natural surface or a surface overlaid with loose gravel or granulated stone is not considered a hard surface.
2. Height: The vertical distance from the established grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, or to the average height between eaves and ridge for gable, hip, shed, or gambrel roofs. Where a building is located on a slope, height shall be measured from the average grade level adjacent to the building.



3. Home Occupation: An accessory occupational use conducted entirely within a dwelling unit by its inhabitants, which is clearly incidental to the residential use of the dwelling unit or residential structure and does not change the residential character of its site.
4. Housing Unit or Dwelling Unit: One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

### 2-12 I

1. Impervious Coverage: The total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percentage of site area. The surface water area of pools, ponds, creeks, streams, and other natural or engineered bodies of water are excluded from this definition.
2. Irregular Lot: A lot in which the side lot lines are not parallel to each other and/or the front

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and back lot lines are not parallel to each other; or a lot that has more or less than four lot lines.

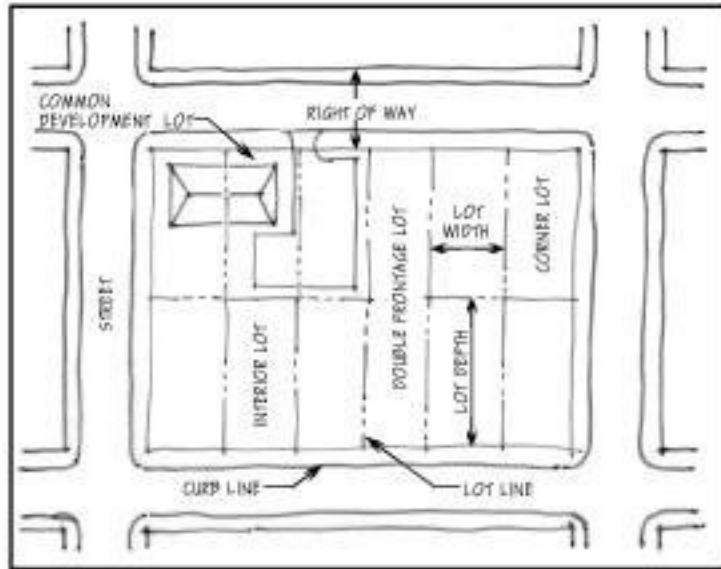
**2-13 J**

**2-14 K**

**2-15 L**

1. Landscape Plan: A plan, drawn to scale, showing dimensions and details for revegetating an area, including maintenance and protection measures.
2. Landscaped Area: The area within the boundaries of a given lot, site, or common development consisting primarily of plant material, including, but not limited to, grass, trees, shrubs, vines, groundcover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.
  - a. Perimeter Landscaped Area: Any required landscaped area that adjoins the exterior boundary of a lot, site, or common development.
  - b. Interior Landscaped Area: Any landscaped area within a site exclusive of required perimeter landscaping.
3. Legal Access: A dedicated right-of-way that connects a subdivision to another dedicated right of way that is external to the subdivision and connects to the rest of the community's transportation system.
4. Loading Area: An off-street area used for the loading or unloading of goods from a vehicle in connection with the use of the site on which such area is located.
5. Lot: A parcel of real property with a separate and distinct number or other designation shown on a plat, record or survey, parcel map, or subdivision map recorded in the office of the Cass County Register of Deeds. When a lot is used together with one or more contiguous lots in a common development, all of the lots used, including any lots used for off-street parking, shall be considered a single lot for purposes of these zoning regulations. A lot shall have a minimum frontage of 20 feet, except as provided in an approved planned unit development and/or cluster subdivision.
  - a. Corner Lot: A lot located at the intersection of two streets, private ways, or courts, or on two segments of a curved street, private way, or court forming an angle of no more than 135 degrees.
  - b. Double Frontage Lot: A lot, other than a corner lot, having frontage on two streets, private ways, or courts. Primary access shall be restricted on a double-frontage lot to the minor of the two streets or to the front line as determined at time of platting or as defined by this chapter. (Also known as a "through lot.")
  - c. Interior Lot: A lot other than a corner lot.

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6. Lot Area: The total horizontal area within the lot lines of a lot.
7. Lot Depth: The average horizontal distance between the front and rear lot lines.
8. Lot Line: The lines bounding a lot as herein defined.
  - a. Front Lot Line: For an interior lot, the lot line separating the lot from the street, private way, or court. For a corner lot, the shorter lot line abutting a street, private way, or court, or the line designated as the front lot line on a subdivision plat or parcel map. For a double-frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Zoning Administrator at the time of application for the original building permit for the lot, or as may be noted on the final plat.
  - b. Rear Lot Line: The lot line which is opposite and most distant from the front lot line.
  - c. Side Lot Line: Any lot line that is neither a front nor rear lot line. A side lot line separating a lot from a street, private way, or court is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
9. Lot Width: The horizontal distance between the side lot lines, measured at the two points of intersection between the front yard setback line and the side lot lines.

### 2-16 M

1. Manufactured Home/Structure: A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site; does not have permanently attached to its body or frame any wheels or axles; bears a label certifying that it was built in compliance with the National Manufactured Home Construction and Safety Standards promulgated by the United States Department of Housing and Urban Development; and which complies with the following architectural and aesthetic standards:

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- a. The home shall have at least 900 square feet of floor area;
  - b. The home shall have an exterior width of at least 18 feet;
  - c. The roof shall be pitched with a minimum vertical rise of 2.5 inches for each 12 inches of horizontal run;
  - d. The exterior material is of a color, material, and scale comparable with those existing in the residential site on which the manufactured home dwelling is being permanently installed;
  - e. The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
  - f. Permanent utility connections shall be installed in accordance with local regulations;
  - g. The home shall have all wheels, axles, transporting lights, and towing apparatus removed; and
  - h. The home shall be installed upon a permanent foundation that is constructed and built in accordance with local regulations.
2. **Manufactured Home Park:** A unified development under single ownership, providing spaces for rent or lease for the placement of mobile home units. Mobile home parks usually include common areas and facilities for management, recreation, laundry, utility services, storage, and other services.
  3. **Manufactured Home Seal:** A device or insignia issued by the Nebraska Department of Health to be displayed on the exterior of a manufactured home/structure or recreational vehicle to evidence compliance with departmental standards. The federal manufactured home label shall be recognized as a seal.
  4. **Mixed-Use Building:** A building or structure that incorporates two or more use types.
  5. **Mixed-Use Development:** A single development which incorporates two or more use types within its site boundaries.
  6. **Mobile Homes:** A building type designed to be transportable in one or more sections, constructed on a permanent chassis or undercarriage, and designed to be used as a dwelling unit or other use with or without a permanent foundation when connected to the required utilities, but not bearing a seal attesting to the approval and issuance of the Nebraska Department of Health or conformance to the manufactured home procedural and enforcement regulations, as adopted by the United States Department of Housing and Urban Development.
  7. **Modular Housing Unit:** Any structure whose construction consists entirely or in major portions of preassembled units not fabricated on the final site of the unit. Such units are moveable or portable until placed on a permanent foundation and connected to utilities. Modular housing units pursuant to this definition are not included in the definition of manufactured home and, for the purpose of this ordinance, are not distinguished from other forms of permanent construction.
  8. **Modular Home Seal:** A device or insignia issued by the Nebraska State Department of Health to be displayed on the exterior of the modular housing unit to evidence compliance with departmental standards.

**2-17** N

1. **Nonconforming Development:** A building, structure, or improvement which does not comply with the regulations for its zoning district set forth by this Zoning Ordinance but which complied with

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applicable regulations at the time of construction.

2. **Nonconforming Lot:** A lot which was lawful prior to the adoption, revision, or amendment of this chapter but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this chapter. No action can be taken which would increase the nonconforming characteristics of the lot.
3. **Nonconforming Sign:** A sign that was legally erected prior to the adoption, revision, or amendment of this chapter but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this chapter.
4. **Nonconforming Structure:** A structure which was lawful prior to the adoption, revision, or amendment of this chapter but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this chapter. No action can be taken which would increase the nonconforming characteristics of the structure.
5. **Nonconforming Use:** A lawful use of land, other than a sign, which does not comply with the use regulations for its zoning district set forth by this Zoning Ordinance but which complied with applicable regulations at the time the use was established.
6. **Nuisance:** An unreasonable and continuous invasion of the use and enjoyment of a property right which a reasonable person would find annoying, unpleasant, obnoxious, or offensive.

### 2-18 O

1. **Open Space:** Area included on any site or lot that is open and unobstructed to the sky, except for allowed projections of cornices, overhangs, porches, balconies, or plant materials.
2. **Outdoor Storage:** The storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.
3. **Overlay District:** A district established by this ordinance to prescribe special regulations to be applied to a site only in combination with a base district.
4. **Owner:** An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

### 2-19 P

1. **Parking Facility:** An area on a lot and/or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this Zoning Ordinance. Parking facilities include parking lots, private garages, and parking structures.
2. **Parking Spaces:** An area on a lot and/or within a building, intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with "parking stall." Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached, and townhome residential uses shall be considered to have a means of access to a public street.
3. **Paved:** Permanently surfaced with poured concrete, concrete pavers, or asphalt.

## DEFINITIONS

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4. Permitted Use: A land-use type allowed as a matter of right in a zoning district, subject only to special requirements of this Zoning Ordinance.
5. Planned Unit Development: A development of land which is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.
6. Porch, Unenclosed: A roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than 30 inches above its floor other than wire screening and a roof with supporting structure.
7. Premises: A tract of land consisting of one or more lots or sites which are contiguous and under common ownership or control.
8. Private Garage: A building for the storage of motor vehicles where no repair or service facilities are maintained and where no motor vehicles are kept for rental or sale.
9. Property Line: The line separating parcels.

### 2-20 Q

### 2-21 R

1. Recreational Vehicle: A vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational, or sporting purposes. Recreational vehicles include, but are not limited to, travel trailers; campers; motor coach homes; converted buses and trucks, boats, and boat trailers; and van conversions.
2. Regulation: A specific requirement set forth by this Zoning Ordinance which must be followed.
3. Remote Parking: A supply of off-street parking at a location not on the site of a given development.

### 2-22 S

1. Screening: The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.
2. Setback: A line within a lot parallel to and measured from a corresponding lot line, forming the boundary of a required yard and setting forth the nearest that a building face may come to that lot line.
3. Shipping container: A container originally constructed for intermodal freight transport the transportation and similarly constructed containers, including: **(Ord No. 2016 6/3/2024)**
  - a. Containers originally, specifically, or formerly used in the parking, shipping, movement, transportation or storage of freight, articles, goods, or commodities; and/or
  - b. containers designed for or capable of being mounted or moved on a rail car; and/or

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- c. containers designed or capable of being mounted on a chassis or bogie for movement by truck trailer or loaded on a ship; and
  - d. portable on demand storage (PODS) units.
4. Sign: A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land, which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.
  5. Site: The parcel of land to be developed or built upon. A site may encompass a single lot, a portion of a lot, or a group of lots developed as a common development. A site must be in one base district, and cannot be separated by a public street or alley.
  6. Site Plan: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.
  7. Special Permit Use: A use with operating and/or physical characteristics different from those of permitted uses in a given zoning district which may, nonetheless, be compatible with those uses under special conditions and with adequate public review. Special permit uses are allowed in a zoning district only at the discretion of and with the explicit permission of the City Council, upon the recommendation of the Planning Commission.
  8. State: The State of Nebraska.
  9. Story: The portion of a building included between the surface of any floor and the surface of the next floor above it; if there is no floor above it, the space between such floor and the next ceiling above it. A half story is a story under a sloped roof, the wall heights of which on at least two opposite, exterior walls are less than four feet.
  10. Street, Local: A street which is used primarily for access to the abutting properties.
  11. Street, Private: A right-of-way, outlot, or other area, designated in a plat and protected by a permanent easement, established to provide vehicular access within a development. A private street is not dedicated or intended to be dedicated to the city or maintained by the city.
  12. Street, Public: A right-of-way, dedicated to public use and maintained by the city, county, or state, that affords a primary means of access to the abutting property. This definition is intended to be inclusive of the term as defined in Nebraska statute.
  13. Street, Intersecting and Principal: In regard to a site, the principal street shall be the street to which the majority of lots on a block face are oriented; the intersecting street shall be a street other than a principal street.
  14. Street Major: A street carrying traffic between neighborhoods, connecting neighborhoods with major activity centers, or accommodating major through traffic. Major streets are designated as collectors, arterials, or expressways by the Comprehensive Development Plan.
  15. Structure: Any object constructed or built, the use of which requires location on the ground or attachment to something located on the ground.

## DEFINITIONS

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16. **Swimming Pool:** A body of water in an artificial or semi-artificial receptacle or other container either located indoors or outdoors, used or intended to be used by the public, semi-public, or private swimming by adults, children, or both adults or children, operated and maintained by any person or entity whether as an owner, lessee, operator, licensee, or concessionaire, including a family pool (a swimming pool used or intended to be used solely by the owner, operator, or lessee thereof and his or her family, and by friends invited to use it without payment of any fee). This definition includes structures, appurtenances, equipment, appliances and other facilities appurtenant to and intended for the operation and maintenance of a swimming pool.

### 2-23 T

1. **Townhouse:** A dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit.
2. **Townhouse Structure:** A building formed by two or more contiguous townhouses with common or abutting walls.

### 2-24 U

1. **Urban Space Plan:** A plan that identifies the nature and programmed use of major open spaces within a development.
2. **Use:** The conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.
3. **Utilities:** Installations, either above or below ground, necessary for the production, generation, transmission, delivery, collection, treatments, or storage of water, solid or fluid wastes, stormwater, energy media, gas, electronic or electromagnetic signals, or other services which are precedent to development and use of land.

### 2-25 V

1. **Value:** The estimated cost to replace a structure in kind, based on current replacement costs.

### 2-26 W

### 2-27 X

### 2-28 Y

1. **Yard:** A required open space on a lot adjoining a lot line, containing only landscaping or other uses as provided by this Zoning Ordinance.
- a. **Front Yard:** A required yard extending the full width of a lot, between the front lot line and the front setback line.
- b. **Rear Yard:** A required yard extending the full width of a lot, between the rear lot line and the rear setback line.
- c. **Interior Side Yard:** A required yard extending the depth of a lot from the front to rear lot lines, between the interior side lot line and the side setback line.

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### **2-29 Z**

1. Zoning District: A designated specified land classification, within which all sites are subject to a unified group of use and site development regulations set forth in this Zoning Ordinance.

# USE TYPES

**03**

## **ARTICLE THREE USE TYPES**

### **3-1 Purpose**

Article Three shall be known as “Use Types.” The purpose of the use types is to establish a classification system for land uses and a consistent set of terms defining uses permitted or conditionally permitted within various zoning districts. The use types section also provides a procedure for determining the applicable use type of any activity not clearly within any defined use type.

### **3-2 Determinations**

- A. **Classification of Uses:** In the event of any question as to the appropriate use types of any existing or proposed use or activity, the Building Official of the City of Plattsburgh shall have the authority to determine appropriate use type. A determination of the Building Official may be appealed to the Board of Adjustment. In making such determinations, the Building Official and the Board of Adjustment shall consider the operational and physical characteristics of the use in questions and shall consider such characteristics or specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists.
- B. **Records:** The Building Official shall make all determinations of appropriate use types in writing. The record of the determination shall contain a report explaining the reasons for the determination.

### **3-3 Residential Use Types**

Residential use types include uses providing wholly or primarily non-transient living accommodations. They exclude institutional living arrangements providing 24-hour skilled nursing or medical care, forced residence, or therapeutic settings.

- A. **Single-Family Residential:** The use of a site for one dwelling unit, occupied by one family, excluding a mobile home unit.
  - 1. **Single-Family Residential (Detached):** A single-family residential use in which one dwelling unit is located on one lot, with no physical or structural connection to any other dwelling unit.
  - 2. **Single-Family Residential (Attached):** A single-family residential use in which one dwelling unit is located on one legally-described lot and is attached by a common vertical wall to only one other adjacent dwelling unit on another legally-described lot.
- B. **Duplex Residential:** The use of a legally-described lot for two dwelling units, each occupied by one family within a single building, excluding manufactured or mobile home units, but including modular housing units.
- C. **Two-Family Residential:** The use of a single, legally described lot for two dwelling units, each occupied by one household, each in a separate building, excluding a mobile home unit.
- D. **Townhouse Residential:** The use of a site for three or more attached dwelling units, each occupied by one family and separated by vertical side walls extending from foundation through roof without openings. Each townhouse unit must have at least two exposed exterior walls.
- E. **Multiple-Family Residential:** The use of a site for three or more dwelling units within one building.

## USE TYPES

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- F. Group Residential: The use of a site for a residence by more than three unrelated persons, not defined as a family, in which occupants are accommodated in rooms not defined as dwelling units. Group residential uses are limited to facilities that are officially recognized or operated by a college or university, government agency, or nonprofit organization.
- G. Retirement Residential: A building or group of buildings that provide residential facilities for older adults. Within a retirement residential use, 75 percent of the resident households must include at least one member of at least 50 years of age. A retirement residential use may provide a range of residential building types, including assisted-living and independent-living facilities. Assisted-living facilities may also provide support services to residents, including, but not limited to, food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences may include additional health care supervision or skilled nursing care included within a continuing care retirement center (CCRC) that also provides assisted and independent living facilities within a unified development.
- H. Manufactured Home Residential: Use of a site for one or more manufactured homes.
- I. Mobile Home Park: Use of a site under single ownership for one or more mobile home units. Generally, the land on which mobile homes are placed in a mobile home park is leased from the owner of the facility.
- J. Mobile Home Residential: Use of a site one or more mobile home units.
- K. Mobile Home Subdivision: Division of a tract of land into lots that meet all the requirements of the Subdivision of Land Ordinance, for the location of mobile homes. Generally, a lot within a mobile home subdivision is owned by the owner of the mobile home placed upon such lot.

### **3-4** Office Use Types

Office use types include uses providing for administration, professional services, and allied activities. These uses often invite public clientele but are more limited in external effects than commercial uses.

- A. Corporate Offices: Use of a site for administrative, processing, or research offices that generally do not provide service to clients from Plattsmouth and the surrounding region. Corporate offices are destinations for commuters drawn from a relatively wide region around Plattsmouth, as well as from the community itself. Typical uses include corporate headquarters offices, telemarketing, or information processing offices.
- B. General Offices: Use of a site for business, professional, medical, or administrative offices. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; medical offices; banks or financial offices; or professional offices.
- C. Financial Services: Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, savings banks, and loan companies. An ATM (automatic teller machine) that is not accompanied on site by an office of its primary financial institution is considered within the personal services use type. The financial services use type is divided into two categories. Financial Services A includes less than 4,000 square feet of floor area and has no more than two drive-up lanes (including ATM lanes). Financial Services B includes 4,000 square feet or more of floor area and/or has more than two drive-up lanes.
- D. Medical Offices: Use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar practitioners licensed for practice in the State of Nebraska. The medical offices use type is divided into two categories. Medical Offices A includes less than 3,000 square feet of floor area. Medical Offices B includes 3,000 square feet or more of floor area.

## USE TYPES

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### **3-5 Commercial Use Types**

Commercial uses include the sale, rental, service, distribution of goods, and the provision of services other than those classified under other use types.

- A. **Agricultural Sales and Service:** Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides and similar goods, or in the provision of agriculturally-related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.
- B. **Automotive and Equipment Services:** Establishments or places of business primarily engaged in sale and/or service of automobiles, trucks, or heavy equipment. The following are considered automotive and equipment use types:
  - 1. **Automobile Auction Lots:** Sale of motor vehicles through a process of periodic auctions or bid procedures. Automobile auction lots usually include large on-site storage areas of motor vehicles and lack showrooms, auto repair facilities, and other structures and facilities that are typical of new car dealerships.
  - 2. **Automotive Rental and Sales:** Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships, motorcycle dealerships, and boat, trailer, and recreational vehicle dealerships.
  - 3. **Auto Services:**
    - a. Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles.
    - b. Washing, cleaning, and/or repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts.

Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, and similar repair and service activities but exclude dismantling, salvage, or body and fender repair services.
  - 4. **Body Repair:** Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.
  - 5. **Equipment Rental and Sales:** Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.
  - 6. **Equipment Repair Services:** Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.
- C. **Bed-and-Breakfast:** A lodging service that provides overnight or short-term accommodations to guests or visitors, usually including provision of breakfast. Bed-and-breakfasts are usually located in large residential structures that have been adapted for this use. For the purpose of this definition, bed-and-breakfasts are always owned and operated by the resident owner of the structure, include no more than

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ten units, and accommodate each guest or visitor for no more than seven consecutive days during any one-month period.

- D. **Business Support Services:** Establishments or places of business primarily engaged in the sale, rental, or repair of equipment, supplies, and materials or the provision of services used by office, professional, and service establishments to the firms themselves, but excluding automotive, construction and farm equipment; or engaged in the provision of maintenance or custodial services to businesses. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment, and supply firms, janitorial services, photography studios, and convenience printing and copying.
- E. **Business or Trade Schools:** A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.
- F. **Campground:** Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents.
- G. **Cocktail Lounge:** A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.
- H. **Commercial Recreation (Controlled Impact):** Private businesses, or other organizations that may or may not be commercial by structure or by nature, primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. Controlled impact commercial recreation uses typically take place entirely within enclosed buildings or, when outdoors, have limited effects related to lighting, hours of operation, or noise. Typical uses include theaters, private dance halls, billiard or bowling centers, game arcades, indoor skating facilities, miniature golf courses, and private golf courses.
- I. **Commercial Recreation (High Impact):** Private businesses, or other organizations that may or may not be commercial by structure or by nature, primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. High impact commercial recreation uses are typically located outdoors and have operating effects caused by lighting, noise, traffic, or hours of operation that create substantial environmental impacts. Typical uses include shooting ranges, lighted driving ranges, go-kart tracks, amusement parks, race tracks, and private baseball complexes.
- J. **Communication Services:** Establishments primarily engaged in the provision of broadcasting and other information-relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities.
- K. **Construction Sales and Services:** Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, or materials used in the construction of buildings or other structures other than retail sale of paint, fixtures, and hardware. This use type excludes those uses classified under automotive and equipment services. Typical uses include building materials sales, or tool and equipment rental or sales.
- L. **Consumer Services:** Establishments which provide services, primarily to individuals and households, but excluding automotive use types. Typical uses include automated banking machines, appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.
- M. **Convenience Storage:** Storage services primarily for personal effects and household goods within enclosed storage areas having individual access but excluding use of such areas as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.

## USE TYPES

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- N. Food Sales: Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.
1. Convenience Food Sales: Establishments occupying facilities of less than 10,000 square feet, characterized by sales of specialty foods or a limited variety of general items, and by the sales of fuel for motor vehicles, and including the retail sale of alcoholic beverages for off-premises consumption when conducted as a secondary feature of the use, producing less than 25 percent of the establishment's gross income.
  2. Limited Food Sales: Establishments occupying facilities of 10,000 square feet or less; characterized by sales of specialty foods or a limited variety of general items, but excluding the accessory sale of fuel for motor vehicles. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, and small grocery stores.
  3. General Food Sales: Establishments selling a wide variety of food commodities, using facilities larger than 10,00 square feet or food sales uses of any size that include the accessory sale of fuel for motor vehicles. Typical uses include supermarkets and convenience stores.
- O. Funeral Services: Establishments engaged in undertaking services such as preparing the human dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.
- P. Gaming Facilities: Establishments engaged in the lawful, on-site operation of games of chance that involve the risk of money for financial gain by patrons. Gaming facilities shall include the accessory sale of liquor and food, pursuant to licensing regulations of the City of Plattsmouth or the State of Nebraska.
- Q. Kennels: Boarding and care services for dogs, cats, and similar small mammals or bipedal birds, or any premises on which three or more animals included under this definition over four months of age are kept and maintained. Typical uses include boarding kennels, ostrich raising facilities, pet motels, or dog training centers.
- R. Laundry Services: Establishments primarily engaged in the provision of laundering, cleaning, or dyeing service
- S. Liquor Sales: Establishments or places of business engaged in retail sale for off-premise consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer, or wine for off-site consumption.
- T. Lodging: Lodging services involving the provision of room and/or board. Typical uses include hotels, motels, or bed-and breakfasts.
- U. Personal Improvement Services: Establishments primarily engaged in the provision of informational, instructional, personal improvements, and similar services of a non-professional nature. Typical uses include driving schools, health or physical fitness studios, reducing salons, dance studios, and handcraft and hobby instruction.
- V. Personal Services: Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops; seamstress, tailor, or shoe repair shops; photography studios; dry cleaning stations serving individuals and households; driving schools; health or physical fitness studios; reducing salons; dance studios; handcraft; and hobby instruction.
- W. Pet Services: Retail sales, incidental pet health services, and grooming and boarding, when totally within a building, of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, small animal clinics, dog bathing and clipping salons, and pet grooming shops, but exclude uses for livestock and large animals.

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- X. Recreational Vehicle Campground. Any parcel of land used, or intended to be used, for the accommodation of recreational vehicles as temporary living quarters with individual lots or spaces offered for sale, lease, or a combination thereof, under the maintenance and management of a property owner, operator, or association dedicated for that purpose. The recreational campground may include a limited amount of commercial use as an accessory use in areas set aside and approved by the City Council from the Site Plan which the City Council deems necessary for this use. No permanent residential dwellings are permitted including, but not limited to, manufactured homes, modular homes, mobile homes, or other types without City Council approval. **(Ordinance No.1920 April 3, 2017)**
- Y. Recreation Vehicle Sales and Storage: Establishments that include the storage and/or display of boats, campers, and motorized recreational vehicles for the purpose of rental or sale.
- Z. Research Services: Establishments primarily engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs.
- AA. Restaurants: A use engaged in the preparation and retail sale of food and beverages, including the sale of alcoholic beverages when conducted as a secondary feature of the use, producing less than 50 percent of the establishment's gross income.
1. Restaurant (Drive-in or Fast Food): An establishment which principally supplies food and beverages in disposable containers and is characterized by high automobile accessibility and on-site accommodations, self-service, and short stays by customers.
  2. Restaurant (General): An establishment characterized by table service to customers and/or accommodation to walk-in clientele. Typical uses include cafes, coffee shops, and restaurants.
- BB. Restricted (or Adult) Entertainment Business:
1. Adult bookstore means an establishment having as a significant portion of its stock in trade books, films, magazines, and other periodicals which are distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.
  2. Adult motel means a motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing sex acts or specified anatomical areas.
  3. Adult motion picture arcade means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.
  4. Adult motion picture theater means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas for observation by patrons therein.
  5. Sexual encounter center means any business, agency or person who, for any form of consideration or gratuity, provides a place where three or more persons may congregate, assemble, or associate for the purpose of engaging in sex acts or exposing specified anatomical areas, excluding nursing mothers.
  6. Sex Acts and Specified Anatomical Areas: For purposes of the subsections 1 through 5 of this definition, the terms "sex acts" and "specified anatomical areas" mean as follows:

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- a. Sex acts means any sexual contact, actual or simulated, either natural or deviate, between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth or tongue and genitalia or anus, or by contact between a finger of one person and the genitalia of another person, or by use of artificial sexual organs or substitute therefore in contact with the genitalia or anus.
  - b. Specified anatomical areas include the following: human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola.
  
- CC. Retail Services: Sale or rental with incidental service of commonly-used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services: Household cleaning and maintenance products, drugs, cards, stationery, notions, books, tobacco products, cosmetics and specialty items; flowers, plants, hobby materials, toys and handcrafted items; apparel jewelry, fabrics and like items; cameras, photograph services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation). Retail services are divided into three categories:
  - 1. Limited Retail Services: Establishments providing retail services, occupying facilities less than 10,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general purpose retailing oriented to Plattsburgh and its surrounding vicinity.
  - 2. Large Retail Services: Establishments providing retail services, occupying facilities between 10,001 and 40,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general purpose retailing oriented to Plattsburgh and its surrounding vicinity.
  - 3. Mass Retail Services: Establishments providing retail services, occupying facilities over 40,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for general purpose retailing oriented to Plattsburgh and the surrounding region.
  
- DD. Stables: Boarding, breeding or raising of horses, llamas, or other hooved animals which are not owned by the occupants of the premises; or for the purpose of riding animals included in this definition by members of the public other than the occupants of the premises or their nonpaying guests. Typical uses include boarding stables or public stables.
  
- EE. Surplus Sales: Businesses engaged in the sale of used or new items, involving regular, periodic outdoor display of merchandise for sale. Typical uses include flea markets and factory outlets or discount businesses with outdoor display.
  
- FF. Trade Services: Establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating, and air conditioning) contractors.
  
- GG. Travel Centers: Facilities that provide for the sale of fuel, provisions, supplies to motorists, including operators of over-the-road trucks, in which less than 30 percent of the total site area is devoted to the servicing, accommodation, parking, or storage of over-the-road trucks. The calculation of these areas includes but is not limited to fuel islands for diesel fuel, truck washing facilities, truck parking areas, and associated maneuvering areas. Travel centers include a mix of uses, including food sales, general retail services, auto and equipment services, and restaurants, and are typically located along or near interstate highways or other principal state and federal designated highway routes.

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- HH. Truck Stops: Facilities that provide for the sale of fuel, provisions, supplies to motorists, including operators of over-the-road trucks, in which 30 percent or more of the total site area is devoted to the servicing, accommodation, parking, or storage of over-the-road trucks. The calculation of these areas includes but is not limited to fuel islands for diesel fuel, truck washing facilities, truck parking areas, and associated maneuvering areas. Travel centers include a mix of uses, including food sales, general retail services, auto and equipment services, and restaurants, and are typically located along or near interstate highways or other principal state and federal designated highway routes.
- II. Veterinary Services: Veterinary services and hospitals for animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries, and veterinary hospitals for livestock and large animals.

### **3-6** Civic Use Types

Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses which are strongly vested with public or social importance.

- A. Administration: Governmental offices providing administrative, clerical, or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county, and city offices.
- B. Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.
- C. Crematoria: A location containing properly installed, certified apparatus intended for use in the act of cremation.
- D. Clubs: Uses providing meeting, recreational, or social facilities for a private, non-profit, or noncommercial association, primarily for use by members and guests. Clubs include:
  - 1. Clubs (Recreational): Clubs that provide indoor and/or outdoor athletic facilities, with or without social or meeting facilities. Typical uses include country clubs, private or nonprofit community or recreation centers, and private golf courses and driving ranges.
  - 2. Clubs (Social): Clubs that provide primarily social or meeting facilities. Typical uses include private social clubs and fraternal organizations.
- E. College and University Facilities: An educational institution of higher learning which offers a course of study designed to culminate in the issuance of a degree certified by a generally recognized accrediting organization. Typical uses include universities, colleges, and community colleges.
- F. Convalescent Services: A use providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.
- G. Cultural Services: A library, museum, or similar registered non-profit organizational use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts and sciences.
- H. Daycare Services (Limited): A facility, or use of a building or portion thereof, for part-time care of fewer than 12 individuals. This term includes nursery schools, preschools, daycare centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.
- I. Daycare Services (General): A facility, or use of a dwelling unit or portion thereof, for part-time care of at least 12 individuals. This term includes nursery schools, preschools, daycare centers for children or

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- adults, and similar uses but excludes public and private primary and secondary educational facilities and non-commercial shelters.
- J. Detention Facilities: A publicly operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.
- K. Emergency Residential Services: A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.
- L. Group Care Facility: A facility licensed or approved by the State of Nebraska or other appropriate agency, which provides for the care and short- or long-term overnight occupancy of more than three unrelated persons who require and receive therapy or counseling on site as part of an organized and therapeutic ongoing program for any of the purposes listed below. Such facilities shall exclude those uses defined as group homes. Group care facilities include facilities which provide for the:
1. Adaptation to living with, or rehabilitation from, the handicaps of physical disability.
  2. Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorder; or of mental retardation if such facility has an overnight occupancy of more than eight persons.
  3. Rehabilitation from the effects of drug or alcohol abuse.
  4. Supervision while under a program alternative to imprisonment, including but not limited to pre-release, work-release, and probationary programs.
- M. Group Home: A facility licensed by the State of Nebraska in which at least four but no more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training, or counseling for the purpose of adaptation to living with or rehabilitation from cerebral palsy, autism, or mental retardation.
- N. Guidance Services: A use providing counseling, guidance, recuperative, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a daytime care basis.
- O. Health Care: A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis including emergency treatment, diagnostic services, training, administration and services to out-patients, employees, or visitors.
- P. Hospital: A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an inpatient basis, including emergency treatment, diagnostic services, training, administration, and services to patients, employees or visitors.
- Q. Maintenance Facilities: A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities, including street or sewer yards, equipment service centers, and similar uses having characteristics of commercial services, contracting, or industrial activities.
- R. Park and Recreation Services: Publicly-owned and operated parks, playgrounds, recreation facilities, and open spaces.
- S. Postal Facilities: Postal services, including post offices, bulk mail processing, or sorting centers operated by the United States Postal Service.

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- T. Primary Educational Facilities: A public, private, or parochial school offering instruction at the elementary school level in the branches of learning and study required to be taught in the public schools of the State of Nebraska.
- U. Public Assembly: Facilities owned and operated by a public agency or a charitable non-profit organization accommodating major public assembly for recreation, sports, amusement, or entertainment purposes. Typical uses include civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, incidental sales, and exhibition facilities.
- V. Religious Assembly: A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto but excluding private primary or private secondary educational facilities, community recreational facilities, daycare facilities, and associated parking facilities. A property tax exemption obtained pursuant to Property Tax Code of the State of Nebraska shall constitute *prima facie* evidence of religious assembly use.
- W. Safety Services: Facilities for conduct of public safety and emergency services including police and fire protection services and emergency medical and ambulance services.
- X. Secondary Educational Facilities: A public, private, or parochial school offering instruction at the middle level or high school level in the branches of learning and study required to be taught in the public schools of the State of Nebraska.
- Y. Skilled Nursing Services: A facility that is licensed by the State of Nebraska and provides bed care and in-patient services for persons requiring regular medical attention but excludes facilities that provide surgical or emergency medical services or facilities that provide care for alcoholism, drug addiction, mental disease, or communicable disease. Typical use includes nursing homes.
- Z. Utility Facility: Any above-ground structures or facilities, other than lines, poles, and other incidental facilities, used for the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, energy media, communications, electronic or electromagnetic signals, or services which are precedent to development and/or use of land.

### **3-7** Parking Use Types

- A. Off-Street Parking: Parking use types include parking of motor vehicles on a temporary basis within a privately or publicly owned off-street parking facility, other than accessory to a principal use.
- B. Parking Structure: The use of a site for a multi-level building which provides for the parking of motor vehicles on a temporary basis, other than as an accessory to a principal use on the same site.

### **3-8** Industrial Use Types

Industrial use types include the on-site extraction or production of goods by non-agricultural methods, and the storage and distribution of products.

- A. Construction Yards: Establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical use is building contractor's yards.
- B. Custom Manufacturing: Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:
  - 1. The use of hand tools, or
  - 2. The use of domestic mechanical equipment not exceeding two horsepower, or

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3. A single kiln not exceeding 8 KW or equivalent.

This category also includes the incidental direct sale to consumers of goods produced on site or otherwise permitted within the zoning district. Typical uses include ceramic studios, custom jewelry manufacturing, and candle making shops.

- C. Light Industry: Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or un-enclosed outdoor storage. Typical uses include commercial bakeries, butcher shops, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops, and publishing houses.
- D. General Industry: Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment, or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines, but often including outdoor storage of materials or products.
- E. Heavy Industry: Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials, except for those uses defined as agricultural industries.
- F. Recycling Collection: Any site which is used in whole or part for the receiving or collection of any post-consumer, non-durable goods including, but not limited to, glass, plastic, paper; cardboard, aluminum, tin, or other recyclable commodities.
- G. Recycling Processing: Any site which is used for the processing of any post-consumer, non-durable goods including, but not limited to, glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.
- H. Resource Extraction: A use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding the grading and removal of dirt. Typical uses are quarries, borrow pits, sand and gravel operations, and mining.
- I. Salvage Services: Places of business primarily engaged in the storage, sale, dismantling, or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junk yards, or paper salvage yards.
- J. Vehicle Storage (Long-Term): Long-term storage of operating or non-operating vehicles. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage.
- K. Warehousing: Uses including open air storage, distribution, and handling of goods and materials. Typical uses include monument yards, grain elevators, and open storage.
- L. Construction Yards: Establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical use is building contractor's yards.

### **3-9** Transportation Use Types

Transportation use types include the use of land for the purpose of providing facilities supporting the movement of passengers and freight from one point to another.

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- A. Aviation Facilities: Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.
- B. Railroad Facilities: Railroad yards, equipment servicing facilities, and terminal facilities.
- C. Transportation Terminal: Facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express, including bus terminals, railroad stations, and public transit facilities.
- D. Truck Terminal: A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.

### **3-10** Agricultural Use Types

Agricultural use types include the on-site production of plant and animal products by agricultural methods.

- A. Horticulture: The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.
- B. Crop Production: The raising and harvesting of tree crops, row crops, or field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.
- C. Animal Production: The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis, or the raising of animals for recreational use. Typical uses include grazing, ranching, dairy farming, and poultry farming.
- D. Concentrated Animal Feeding Operation (CAFO):
  - 1. The use of a site for the confined feeding or holding of 1,000 or more animal units of livestock or poultry within buildings, lots, pens, or other close quarters which are not used for crop production or where grazing of natural vegetation is not the major feed source. Livestock and poultry shall include any animal or fowl which are used primarily for use as food or food products for human consumption, or for laboratory or testing purposes. A CAFO does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.
  - 2. For the purpose of this calculating animal units, the animal unit equivalents for each type of livestock are established as follows:

<u>Type of Livestock</u>	<u>Equivalent Animal Units</u>
Slaughter and Feed Cattle	1.00
Mature Dairy Cattle	1.40
Swine	0.40
Sheep	0.10
Horses	2.00
Turkeys	0.02
Ducks	0.20
Chickens	0.01

- M. Livestock Sales: Use of a site for the temporary confinement and exchange or sale of livestock. Typical use includes sales barns.

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### **3-11** Miscellaneous Use Types

- A. Amateur Radio Tower: A structure(s) for the transmission or broadcasting of electromagnetic signals by FCC-licensed amateur radio operators.
- B. Alternative Energy Production Devices: The use of a site for the production of energy utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include solar collector fields, geothermal energy installations, or water-powered mills or generating facilities.
- C. Communications Tower. A structure(s) for the transmission or broadcasting of radio, television, or radar, ordinarily exceeding the maximum height permitted in its zoning district. Typical uses include broadcasting towers. "Communications Tower" shall not include a "Wireless Communications Facility" or any component thereof. **(Ord. No. 1934, 4/16/2018).**
- D. Construction Batch Plant: A temporary demountable facility used for the manufacturing of concrete, asphalt, or other paving materials intended for specific construction projects.
- E. Wind Energy Conservation System (WECS): Any device which converts wind energy to a form of usable energy, including wind charges, windmills, or wind turbines.
- F. Landfill (Non-Putrescible Solid Waste Disposal): The use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials, and ceramic tile.
- G. Landfill (Putrescible and Non-Putrescible Solid Waste Disposal): The use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the Federal Environmental Protection Agency and/or the State of Nebraska. Typical disposal material would include non-putrescible wastes, and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage), and manure.
- H. Wireless Communications Facility: a facility, structure, equipment, or combination thereof which meets the definition of a "Wireless Communications Facility" set forth in Article 13. **(Enacted by Ordinance No. 1934 4/16/2018)**

**04** ARTICLE FOUR  
ZONING DISTRICTS

**4-1** General Purpose

Article Four presents the “Zoning District” regulations. Zoning districts are established in the Zoning Ordinance to promote compatible land use patterns and to establish site development regulations appropriate to the purposes and specific nature of each district.

**4-2** Establishment of Districts

The following base districts and overlay districts are hereby established.

Map Code	District Name
<b>Base Districts</b>	
AG	Agricultural District
RR	Rural Residential District
R-1	Urban Residential Low-Density District
R-2	Urban Residential Medium-Density District
R-3	Urban Residential High-Density District
MH	Mobile Home Park Planned District
LC	Limited Commercial and Office District
UC	Urban Corridor District
GC	General Commercial District
CB	Central Business District
BP	Business Park District
GI	General Industrial District
HI	Heavy Industrial District
<b>Overlay Districts</b>	
MU	Mixed Use Overlay District
CCD	Civic Corridor Design Overlay District
PUD	Planned Unit Development Overlay District
ED	Environmental Resources Overlay District
HD	Historic Overlay District
FP/FW	Floodplain/Floodway Overlay District
AV	Aviation Overlay District

**4-3** Application of Districts

- A. A base district designation shall apply to each lot or site within the city and its planning jurisdiction. A site must be in one base district.
- B. The flood plain/floodway, planned unit development, historic, and environmental resources overlay districts may be applied to any lot or site or any portion thereof, in addition to a base district designation.

**4-4 Hierarchy**

References in the Zoning Ordinance to less intensive or more intensive districts shall be deemed to refer to those agricultural, residential, commercial, and industrial base zoning districts established in Section 4-2, and shall represent a progression from the AG Agricultural District as the least intensive to the HI Heavy Industrial District as the most intensive. The overlay districts shall not be included in this reference.

**4-5 Development Regulations**

For each zoning district, permitted uses are set forth in Table 4.1. Individual sections describe the purpose and specific development regulations for each zoning district. Supplemental regulations may affect specific land uses or development regulations in each zoning district. The applicable supplemental regulations are noted in Table 4.1.

**4-6 Zoning Map**

- A. Boundaries of zoning districts established by this Zoning Ordinance shall be shown on the zoning map maintained by the City Clerk. This map, together with all legends, references, symbols, boundaries, and other information, shall be adopted as a part of, and concurrent with, this ordinance.
- B. The zoning map may be changed from time to time by ordinance, following the procedure set forth by Article Twelve. Such changes shall be reflected on the zoning map. The City Clerk shall keep a complete record of all changes to the zoning map.

**4-7 Interpretation of District Boundaries**

The following rules shall apply in determining the boundaries of any zoning district shown on the zoning map.

- A. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be considered the district boundaries.
- B. Where district boundaries are indicated as within street or alley, railroad, or other identifiable rights-of-way, the centerline of such rights-of-way shall be considered the district boundary.
- C. Where a district boundary divides a property, the location of the boundary shall be determined by the use of the scale appearing on the zoning map.
- D. The City Council shall determine any other uncertainty regarding district boundaries not covered in this section.

**4-8 Vacation of Streets and Alleys**

Whenever a public street or alley is vacated, the zoning district adjoining each side of such right-of-way shall be extended out to the former centerline.

**4-9 Zoning on Additions to the Extra-Territorial Jurisdiction**

All unimproved or agricultural territory that may hereafter be added to the city through annexation shall be considered as lying in the AG Agricultural District until such classification shall be changed as provided by this ordinance. Any improved property under Plattsmouth zoning that is added to the extra-territorial jurisdiction shall be zoned according to the zoning district that most nearly describes either its present use or the use proposed by Plattsmouth's Comprehensive Development Plan. This zoning shall be established by the Planning Commission and the City Council at the time of the expansion of the jurisdiction.

**4-10 Required Conformance**

Except as specified in this chapter, no building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used that does not comply with all of the district regulations established by this title for the district in which the building or land is located.

**4-11 Required Frontage**

No lot shall contain any building used in whole or in part for residence purposes unless such lot abuts for at least 20 feet on at least one public street, or unless it has an exclusive unobstructed private easement of access or right-of-way of at least 20 feet wide to a street; and there shall be not more than one single-family dwelling for such frontage or easement, except that a common easement of access at least 50 feet wide may be provided for two or more such single-family dwellings or for one or more two-family or multiple dwellings.

**4-12 Use Matrix: Levels of Permitted Uses**

Within zoning districts in Plattsburgh, different uses are permitted with different conditions. These are displayed in Table 4.1: Use Matrix. Levels of permission include:

- A. Uses that are Permitted by Right: These uses are permitted subject to issuance of a building permit by the Building Official, subject only to compliance with all regulations of this ordinance. Uses permitted by right might be subject to supplemental regulations contained in this ordinance. These uses are indicated in the use matrix by a "P" in the applicable cell.
- B. Special Uses: These uses are subject to approval of a special use permit by the City Council, following recommendation of the Planning Commission and the procedure set forth in Article 12. These uses are indicated in the use matrix by a "S" in the applicable cell.
- C. Site Plan Approval: Some use types require an additional site plan approval by the Zoning Administrator/ Building Official, based on specific criteria for review. This procedure is set forth in Section 12-3. These uses are indicated in the use matrix by an asterisk (\*) following the citing of a specific use type.

**4-13 Guide to Site Development Regulators**

The regulators set forth in the tables in Sections 4-14 through 4-26 establish the limits and requirements for most development in the City of Plattsburgh and its extra-territorial jurisdiction. This section is intended to provide guidance for applying the regulators contained in these tables.

- A. Site Area per Housing Unit: This indicates the gross land area per unit within a residential development. For example, a 40-lot subdivision on a 10-acre (435,600 square foot tract) will have a site area per unit of 10,890 square feet. Site area per unit, which measures gross density, may differ from minimum lot size. In conservation development, the site area per unit will be larger than minimum lot size, permitting the clustering of lots in exchange for common open space. In multi-family development, the site area per unit will usually be smaller than minimum lot size, because the lot is the legal parcel on which a multiple-unit building is built.
- B. Minimum Lot Area: This indicates the minimum size of a legally described and recorded parcel upon which development can take place. As noted above, minimum lot area and site area per unit may not be the same.
- C. Minimum Lot Width: This is the required minimum distance connecting at points along opposite side lot lines, measured at the required front yard setback. For example, the lot width of an irregular lot in a district requiring a 25-foot front yard setback is determined by:

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1. Locating the points along each side lot line at a distance of 25 feet back from the front property line.
  2. Drawing a line connecting these two points.
  3. Measuring the length of this line. The length is the lot width.
- D. Minimum Yards: These define the required setbacks of buildings from front, side, and rear property lines. While the yard requirements apply to a majority of development, the ordinance provides for a number of exceptions. Some of these include:
1. Planned Unit Developments: Front yard setbacks may be varied within planned unit developments, which are reviewed and approved by the City Council after a recommendation from the Planning Commission.
  2. Major Streets: The city may require greater than normal setbacks along segments of the city's arterial street system, as defined in the Comprehensive Development Plan.
  3. Flexibility Provided by Supplemental Development Regulations: Article 07 establishes supplemental regulations, many of which provide flexibility or variations in setback regulations for specific contexts.
- E. Maximum Setbacks: Some specific zoning districts provide maximum as well as minimum setbacks. These setbacks establish "build-to" lines that may be necessary to protect the appearance and character of special urban districts.
- F. Maximum Height: Height normally measures the vertical distance from the established grade to the highest point of a building. However, as established by the definition of height, the point of measurement may vary for different types of buildings and roof slopes.
- G. Maximum Building Coverage: This measures the percentage of a site that may be covered by the footprint of buildings. Thus, a 20,000 square foot building on a 40,000 square foot site has a building coverage of 50 percent. This is a method of regulating the scale of buildings in an area.
- H. Maximum Impervious Coverage: This measures the percentage of a site that may be covered by buildings and other surfaces and development features which prevent the penetration of water into the ground (such as driveways, porches, parking lots, and other features). Limits on impervious coverage help control the velocity and quantity of stormwater runoff and provide for groundwater recharge.
- I. Floor Area Ratio: Just as site area per unit controls the density of residential development, floor area ratio (FAR) controls the density of non-residential development. FAR is the ratio of gross floor area of a building to total site area. Thus, in an area with a maximum permitted FAR of 1.0, a 40,000 square foot building may be located on a 40,000 square foot site. Naturally, because of coverage ratios, landscaping, and parking requirements, such a building will be multi-story.
- J. Maximum Amount of Total Parking in Street Yard: This controls the maximum amount of parking that can be located in the area between a building facade and the street. When applied in certain zoning districts, it is intended to reduce the number of cars seen from the street, encourage site planning which locates parking in rear and side yards, and produce a stronger relationship between buildings and streets. For example, a project with 100 parking stalls and a 50 percent limit on the amount of parking located in street yards must locate 50 of its stalls in rear or side yards without street exposure.
- K. Minimum Depth of Landscaping Adjacent to Street Right-of-Ways: This establishes the depth of landscaping that must be provided on private property adjacent and in from the right-of-way line. Thus, if the required minimum depth is 15 feet, a project must landscape the first 15 feet of its site back from the

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right-of-way line. All landscaping must be done in accordance with Article 08, establishing landscaping standards.

- L. Minimum Bufferyard Requirements: This establishes the depth of a bufferyard that must be provided by intensive land uses adjacent to primarily residential land uses in residential zoning districts. All landscaping must be done in accordance with Article 08 establishing landscaping standards.
- M. Supplemental Use Regulations: Certain permitted uses require satisfaction of specific requirements in order to function successfully in their urban or rural contexts. These supplemental requirements are set forth in Article 06. These requirements are cross-referenced in the “Supplementary Regulations” column of the use matrix.

<b>TABLE 4.1: PERMITTED USES BY ZONING DISTRICT</b>														
<i>P = Permitted Uses by Right    S = Uses Permitted by Special Use Permit    Blank = Uses Not Permitted</i>														
<b>Use Types</b>	<b>AG</b>	<b>RR</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>MH</b>	<b>LC</b>	<b>UC</b>	<b>GC</b>	<b>CBD</b>	<b>BP</b>	<b>GI</b>	<b>HI</b>	<b>Supplementary Regulations</b>
<b>Agricultural Uses</b>														
Horticulture	P	P												6-2
Crop Production	P	P												6-2
Animal Production	P	S												6-2
Confined Animal Feeding Operations														6-2
Livestock Stales	S													
<b>Residential Uses</b>														
Single-Family Detached	P	P	P	P	P	P	S	P			S			
Single-Family Attached			S	S	P	P	S	P			S			
Duplex				S	P		S	S			S			
Two-Family*	S	S	S	S	S		S	S			S			6-3A
Townhouse*				S	P		S	P			S			
Multiple-Family*					P		S	P			P			6-3B
Group Residential*					P		P	P			P			6-3B
Retirement Residential*	S	S	S	P	P	S	S	P			P			6-3D
Mobile Home Park*						P								
Mobile Home Subdivision	S	S	S	P	P	S	S	P						6-3C
Mobile Home Residential						S								6-3C
Manufactured Home Residential	P	P	P	P	P	P	P	P			S			
<b>Civic Uses</b>														
Administration		S					P	P	P	P	P	P	P	
Cemetery*	P	P	S		S									
Crematoria	S										S	P	P	
Clubs (Recreational)*	S	S	S	S	P	S	P	P	P	P	P	P	P	6-4A
Clubs (Social)*	S	S	S	S	S	S	P	P	P	P	P	P	P	6-4A
College/ University*		S	S	S	P	S	P	P	P		S	P		(Ord. No. 1904 12/7/2015)
Convalescent Services*					P		P	P				S		
Cultural Service*		P	P	P	P	P	P	P	P	P	P	P		
Day Care (Limited)		P	P	P	P	P	P	P	P	P	P	S		6-4B
Day Care (General)*		S	S	S	P	S	P	P	P	P	P	S		6-4C
Detention Facilities*	S						S		S			S	S	
Emergency Residential Services	P	P	P	P	P	P		P						
Group Care Facility*	S	S	S	S	P	S	P	P	P	P		S		6-4D
Group Home	P		P		P		P		P	P				6-4D

ZONING DISTRICTS

TABLE 4.1: PERMITTED USES BY ZONING DISTRICT														
<i>P = Permitted Uses by Right S = Uses Permitted by Special Use Permit Blank = Uses Not Permitted</i>														
Use Types	AG	RR	R-1	R-2	R-3	MH	LC	UC	GC	CBD	BP	GI	HI	Supplementary Regulations
Guidance Services					P		P	P	P	P	P			
Health Care*	S				P		P	P	P	P	P			
Hospital*	S			S	S		S	S	P	P	P	S	S	
Maintenance Facilities*	S	S							P			P	P	
Park and Recreation	P		P		P		P		P	P	P	P	P	
Postal Facilities*					S		P	P	P	P	P	P	P	
Primary Education*		P	P	P	P	P	P	P	S	P				
Public Assembly*							S	S	P	P	S			
Religious Assembly*	S	S	P	P	P	P	P	P	P		P			
Safety Services*	P	P	P	P	P	P	P	P	P	P	P	P	P	
Secondary Education*		S	S	S	P	S	S	S	S	S	S			
Skilled Nursing*	S			S	S		S	S	P	P	P	S	S	
Utilities*	P	P	P	P	P	P	P	P	P	P	P	P	P	
<b>Office Uses</b>														
General Offices					S		P	P	P	P	P	P	P	
Corporate Offices*					S		P	P	P	P	P	P	P	
Financial Services							P	P	P	P	P	P	P	
Medical Offices							P	P	P	P	P	P	P	
<b>Commercial Uses</b>														
Agricultural Sales/Service*	S								P		S	P	P	
Automobile Auction Lots*														
Automotive Rental/ Sales*									P		S			6-5C
Auto Services*							S	S	P	P	P	P	P	6-5A, 6-5 B
Body Repair*									S		S	P	P	6-5 A
Equipment Rental/ Sales*									P	S	S	P	P	6-5 C
Equipment Repair *									P		S	P	P	6-5 A
Bed and Breakfast*			S	S	P	S	P	P	P	P	S	P		6-5 D
Business Support Services*							P	P	P	P	P	P	P	
Business/ Trade Schools*									P	P	P	P		
Campground*	P	S							S					6-5 E
Cocktail Lounge *									P	P	P			
Commercial Recreation * (Controlled Impact)							S		P	P	P	P	P	
Commercial Recreation * (High Impact)	S								P		S	P	P	
Communication Services*							P	P	P	P	P	P	P	
Construction Sales and Service*									P	S	P	P	P	6-5G
Consumer Services*							P	P	P	P	P	P		
Convenience Storage*	S	S			S				S		P	P	P	6-5 F
Food Sales (Convenience)*							P	S	P	P	S	P	S	
Food Sales (Limited)*					S		P	P	P	P	S			
Food Sales (General)*							S	P	P	P	S			
Funeral Services*							P	P	P	P	P			
Kennels*	P	S							S			P		6-5H
Laundry Services*									P	S	P	P	P	
Liquor Sales*		S							P	P				
Lodging *							S	P	P	P	P			
Personal Improvement							P	P	P	P	P	P		
Personal Services*					S		P	P	P	P	P	P		
Pet Services *							P	P	P	P	P			
Recreational Vehicle Campground									S					6-5I (Ord No. 1920 4/3/2017)

ZONING DISTRICTS

TABLE 4.1: PERMITTED USES BY ZONING DISTRICT														
<i>P = Permitted Uses by Right S = Uses Permitted by Special Use Permit Blank = Uses Not Permitted</i>														
Use Types	AG	RR	R-1	R-2	R-3	MH	LC	UC	GC	CBD	BP	GI	HI	Supplementary Regulations
Recreation Vehicle Sales and Storage*	S								S			S	S	
Research Services*	S						P	P	P	P	P	P		
Restaurants (Drive-In)*								S	P				S	
Restaurants (General)*							P	P	P	P	P	S		
Restricted (Adult) *Businesses									S			P	P	6.5I
Limited Retail Services							P	P	P	P	P			
Large Retail Services*							P	S	P	P	P			
Mass Retail Services*									S					
Stables*	P	S												
Surplus Sales*									P	P	P	P	P	
Trade Services*							S	S	P	S	P	P	P	
Travel Centers							S		P		S	P	P	
Truck Stops*										S	S	S	P	
Veterinary Services*	S	S							P			P		
Gaming Facility*									P	S				
<b>Parking Uses</b>														
Parking Structure*							S		P	P	P	P	P	
Off -Street Parking*									P	P		P	P	Article 9
<b>Industrial</b>														
Construction Yards*											P	P	P	
Custom Manufacturing								P	P	S	P	P	P	
Light Industry*									S	P	P	P	P	
General Industry*											P	P	P	
Heavy Industry*													P	
Resource Extraction*	S												P	6-6 A
Salvage Services*													P	6-6 B
Warehousing*											P	P	P	
Construction Yards*												P	P	
Recycling Collection*									P			P	P	
Recycling Processing*												P	P	
Vehicle Storage (Long-Term)*									S		P	P	P	
<b>Transportation Uses</b>														
Aviation*	P										S		P	
Railroad Facilities*									S		S	P	P	
Transportation Terminal*							S		P		P	P	P	
Truck Terminal*												P		
<b>Miscellaneous Uses</b>														
Amateur Radio Tower	P	P	P	P	P	P	P	P	P	S	P	P	P	
Communications Tower	S	S							S	S		P	P	6-7B
Construction Batch Plant												P	P	
WECS	S	S	S	S	S	S	S	S	S			S	S	6-7C
Landfill (Non-Putrescible)*	S	S											S	6-7 A
Landfill (Putrescible)*	S												S	6-7 A
Alternative Energy Production Devices	S	S	S	S	S	S	S	S	S		S	S	S	
Wireless Communications Facility	S	S	S	S	S	S	S	S	S	S	S	S	S	(Ord. No. 1934 4/16/2018)

\* Additional Site Plan Approval as set forth in Section 12-3

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**4-14 AG – Agricultural District**

Purpose: The AG district provides for and preserves the agricultural and rural use of land, while accommodating extremely low density residential development generally associated with agricultural uses. This district is designed to maintain permanent and comprehensive agricultural uses within the Plattsmouth extra-territorial jurisdiction. It recognizes that major agriculture has industrial aspects and negative effects on nearby neighborhoods that often create conflicts between agricultural and residential uses. In addition, land included in the urban reserve in the Comprehensive Plan should be retained in the AG district to prevent premature or inappropriate development.

<b>TABLE 4.2: AG SITE DEVELOPMENT REGULATIONS</b>		
<b>Regulator</b>	<b>One-Family Units</b>	<b>Other Permitted Uses</b>
Site Area per Housing Unit	10 Acres	NA
Minimum Lot Area	10 Acres	10 Acres
Minimum Lot Width (Feet)	300	300
Minimum Yards (Feet)		
Front Yard	50 (Note 1)	50
Side Yard	25	25
Street Side Yard	25	25
Rear Yard	35	35
Maximum Height (Feet)	35	35; 50 for Farm Buildings, 100 for Grain Storage Structures
Maximum Building Coverage	NA	NA
Maximum Impervious Coverage	NA	NA
Floor Area Ratio	NA	NA
Maximum Amount of Total Parking Located in Street Yard	NA	NA

**Note 1:** Front yard setback is measured from property line of platted lots. For unplatted lots along roads, residential structures shall be set back sufficiently to allow for future right-of-way dedications. This setback is typically 75 feet from the center line of the adjacent road. The Zoning Official may establish a different setback requirement based on the specific context of a parcel. The reason for any such variation shall be documented in writing by the Zoning Official.

**4-15 RR – Rural Residential District**

Purpose: The RR district provides for the rural residential use of land, accommodating agriculture and very low density residential environments. It is designed for permanent development of relatively remote areas that are beyond the reach of Plattsmouth’s foreseeable urban development pattern, making eventual extension of urban services extremely unlikely. RR districts do not permit comprehensive agriculture, and are intended for areas where farming is not a primary, permanent land use. Subdivisions in RR districts generally will be developed to rural standards, with gravel roads, surface drainage, and individual water and wastewater management systems. In parts of the Plattsmouth jurisdiction with distinctive landforms, conservation development design is required to maintain the character of the land. These areas are designated by the ED - Environmental Resource overlay district and are subject to special standards and planning procedures set forth in Section 5-5 of the Zoning Ordinance. These standards encourage the preservation of important open space resources without reducing the density permitted the developer or property owner.

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TABLE 4.3: RR SITE DEVELOPMENT REGULATIONS		
Regulator	One-Family Units	Other Permitted Uses
Site Area per Housing Unit	1 Acre	NA
Minimum Lot Area	1 Acre	1 Acre
Minimum Lot Width (Feet)	100	100
Minimum Yards (Feet)		
Front Yard	50	50
Side Yard	25	25
Street Side Yard	25	20
Rear Yard	35	35
Maximum Height (Feet)	36	36
Maximum Building Coverage	30%	30%
Maximum Impervious Coverage	40%	40%
Floor Area Ratio	NA	NA
Maximum Amount of Total Parking Located in Street Yard	NA	NA
Project Size Requiring Planned Development District (PD)	NA	NA

**4-16**    **R-1 – Urban Residential Low-Density District**

Purpose: The R-1 district is intended to provide for urban residential development, with gross densities generally below four units per acre. These areas generally include single-family detached and attached dwellings on relatively large lots with supporting community facilities and urban services, including city water and sanitary sewer service. The R-1 district will typically be used for single-family development that is provided with municipal water and sewer service.

TABLE 4.4: R-1 SITE DEVELOPMENT REGULATIONS			
Regulator	One-Family Detached	One-Family Attached (Note 2)	Other Permitted Uses
Site Area per Housing Unit	7,500	6,000	
Minimum Lot Area	7,500 Square Feet	5,000 per Unit	7,500
Minimum Lot Width (Feet)	75	45 per Unit	75
Minimum Yards (Feet)			
Front Yard	25	25	25
Side Yard (Note 1)	15	15	15
Street Side Yard	20	20	20
Rear Yard*	20	20	20
Maximum Height (Feet)	36	36	36
Maximum Building Coverage	40%	40%	40%
Maximum Impervious Coverage	50%	50%	50%
Floor Area Ratio	NA	NA	NA
Maximum Amount of Total Parking Located in Street Yard	NA	NA	NA

\* The required rear yard area is calculated as 20 percent of the lot depth times the lot width. Provided that this minimum area is maintained, a portion of a residential structure may come as close as 10 feet from a rear lot line.

**Note 1 - Zero Lot Line:** Within a common development, one interior side yard may be equal to zero for single-family detached residential use if:

- A. The normal side yard setback requirement must be maintained adjacent to any lot with an existing structure not within the common development; or not otherwise designated for zero lot line use.

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- B. An easement for maintenance of the zero lot line façade is prepared by the developer and filed with the Cass County Register of Deeds, the City Clerk, and the Zoning Official at the time of application for a building permit.

**Note 2 - Single-Family Attached Development:** Single-family attached development requires approval of a Planned Unit Development.

**4-17 R-2 – Urban Residential Medium-Density District**

Purpose: The R-2 district is intended to provide for moderate density residential development, with gross densities generally between six and twelve units per acre. These developments are characterized by single-family dwellings on moderately-sized lots along with low-density multi-unit residential structures such as duplexes and townhouses approved by special use permit. It adapts to both established and developing neighborhoods, as well as transitions between single-family and multi-family areas.

<b>TABLE 4.5: R-2 SITE DEVELOPMENT REGULATIONS</b>					
<b>Regulator</b>	<b>One-Family Detached</b>	<b>One-Family Attached</b>	<b>Duplex</b>	<b>Townhouse (Note 1)</b>	<b>Other Permitted Uses</b>
Site Area per Housing Unit (Square Feet)					
In Conventional Development	5,000	5,000	4,000	3,000	
In Planned Developments	5,000	4,000	3,000	2,500	
Minimum Lot Area					
In Conventional Development	5,000	5,000	8,000	3,000	6,000
In Planned Unit Developments	4,000	4,000	6,000	2,500	6,000
Minimum Lot Width (Feet)					
In Conventional Development	75	50 per Unit	75	30	60
In Planned Unit Developments	45	40 per Unit	60	25	60
Minimum Yards (Feet) (Note 3)					
Front Yard	25	25	25	25	25
Side Yard (Note 2)	5	5	5	5	5
Street Side Yard	15	15	15	15	15
Rear Yard*	20	20	20	20	25
Maximum Height (Feet)	36	36	36	36	36
Maximum Building Coverage	40%	40%	40%	50%	50%
Maximum Impervious Coverage	50%	50%	50%	60%	60%
Floor Area Ratio	NA	NA	NA	NA	0.50
Maximum Amount of Total Parking Located in Street Yard	NA	NA	NA	NA	50%

**(Table 4.5 amended by Ordinance No. 1896, 6/15/2015)**

\* The required rear yard area is calculated as 20 percent of the lot depth times the lot width. Provided that this minimum area is maintained, a portion of a residential structure may come as close as 10 feet from a rear lot line.

**Note 1 - Townhouse Development:** No more than four units may be attached in a single townhouse structure within an R-2 district. Regulators are shown on a per unit basis.

**Note 2 - Zero Lot Line or Single-Family Attached Development:** Within a common development, one interior side yard may be equal to zero for single-family detached residential use if:

- A. The normal side yard setback requirement must be maintained adjacent to any lot with an existing structure not within the common development; or not otherwise designated for zero lot line use.
- B. An easement for maintenance of the zero lot line façade is prepared by the developer and filed with the Cass County Register of Deeds, the City Clerk, and the Building Official at the time of application for a building permit.

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**Note 3 - Flexible Yard Setbacks in Planned Unit Developments:** The Planning Commission and City Council may vary required minimum setbacks in planned districts. However, the setback from the front facade of a garage to any public or private street right-of-way including the boundary of sidewalk(s) must be at least 20 feet.

**4-18 R-3 – Urban Residential High-Density District**

Purpose: The R-3 district is intended to provide for low and medium density multi-family residential development, with gross densities above 12 units per acre. These developments often are characterized by low-rise buildings in multiple structure configurations, with an emphasis on open space, convenient parking, and, in many cases, common community facilities such as clubhouses and swimming pools. This district is also appropriate for larger townhouse complexes, while still accommodating lower density forms of development.

TABLE 4.6: R-3 SITE DEVELOPMENT REGULATIONS						
Regulator	One-Family Detached	One-Family Attached (Note 1)	Duplex	Townhouse (Note 1)	Multi-Family (Note 2)	Other Permitted Uses
Site Area per Housing Unit (SF)						
In Conventional Development	5,000	4,000	3,000	3,000	2,500	
In Planned Developments	4,000	3,000	2,500	2,500	1,500	
Minimum Lot Area						
In Conventional Development	5,000	4,000	6,000	3,000	10,000	5,000
In Planned Developments	4,000	3,000	5,000	2,500	10,000	5,000
Minimum Lot Width (Feet)						
In Conventional Development	50	40	50	25	100	50
In Planned Unit Developments	45	30	45	20	100	50
Minimum Yards (Feet) (Note 3)						
Front Yard	25	25	25	25	25	25
Side Yard	5	5	5	5	(Note 6)	(Note 6)
Street Side Yard	15	15	15	15	15	15
Rear Yard (Note 4)	20% of Lot Depth	20% of Lot Depth	20% of Lot Depth	20% of Lot Depth	20	35
Maximum Height (Feet)	36	36	36	36	72	72
Maximum Building Coverage	50%	50%	50%	60%	60%	60%
Maximum Impervious Coverage	60%	60%	60%	70%	70%	70%
Floor Area Ratio	NA	NA	NA	NA	0.50	0.50
Maximum Amount of Total Parking Located in Street Yard	NA	NA	NA	NA	50%	50%

**Note 1 – One-Family Attached and Townhouse Development:** Regulators are shown on a per unit basis. Side yard setbacks are indicated for detached building walls.

**Note 2 - Multi-Family Development:** Site area per unit may be reduced subject to approval of a special use permit by the City Council after a recommendation of the Planning Commission, or within a planned unit development.

**Note 3 - Zero Lot Line and Single-Family Attached Development:** Within a common development, one interior side yard may be equal to zero for single-family detached residential use if:

- A. The normal side yard setback requirement must be maintained adjacent to any lot with an existing structure not within the common development; or not otherwise designated for zero lot line use.
- B. An easement for maintenance of the zero lot line façade is prepared by the developer and filed with the Cass County Register of Deeds, the City Clerk, and the Building Official at the time of application for a building permit.

**Note 4:** The required rear yard area is calculated as the lesser of 20 feet or 20 percent of the lot depth to a minimum of 15 feet.

**Note 5 - Flexible Yard Setbacks in Planned Unit Developments:** The Planning Commission and City Council may vary required minimum setbacks in planned districts. However, the setback from the front facade of a garage to any public or private street right-of-way including the boundary of sidewalk(s) must be at least 20 feet.

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**Note 6 - Side Yard Set Back:** Interior side yard is equal to five feet for each story of height.

**Additional Requirements:** Parking areas, accessory buildings, and garages must be at least five feet from a side or rear lot line. A greater separation from residential zoning districts may be required by Article 9.

**4-19 MH – Mobile Home Park Planned District**

Purpose: The MH district recognizes that mobile home development, properly planned, can provide important opportunities for affordable housing. It provides opportunities for mobile home development within planned parks or subdivisions, along with the supporting services necessary to create quality residential neighborhoods.

<b>Regulator</b>	<b>One-Family Detached and Mobile Home Units on Sub-Divided Lots</b>	<b>One-Family Attached and Townhouse (Note 1)</b>	<b>Duplex</b>	<b>Mobile Home Park (Note 2)</b>	<b>Other Permitted Uses</b>
Site Area per Housing Unit (SF) In Conventional Development In Planned Developments	5,000 4,000	4,000 3,000	4,000 3,000	NA 4,000	
Minimum Lot Area In Conventional Development In Planned Developments	5,000 4,000	4,000 3,000	8,000 6,000	NA 2 Acres	6,000 6,000
Minimum Lot Width (Feet) In Conventional Development In Planned Developments	50 40	40 30	50 45	NA 100	60 60
Minimum Yards (Feet) (Note 3) Front Yard Side Yard (Note 4) Street Side Yard Rear Yard (Note 5)	25 5 25 20% of Lot Depth	25 10 25 20% of Lot Depth	25 5 25 20% of Lot Depth	35 35 35 35	25 10 25 25
Maximum Height (Feet)	36	36	36	36	36
Maximum Building Coverage	40%	40%	40%	NA	NA
Maximum Impervious Coverage	50%	50%	50%	50%	50%
Floor Area Ratio	NA	NA	NA	NA	0.50
Maximum Amount of Total Parking Located in Street Yard	NA	NA	NA	NA	50%

\* The required rear yard area is calculated as 20 percent of the lot depth times the lot width. Provided that this minimum area is maintained, a portion of a residential structure may come as close as 10 feet from a rear lot line.

**Note 1 –Single-Family Attached Townhouse Development:** No more than four units may be attached in a single townhouse structure within an MH district. Regulators are shown on a per unit basis. Side yard setbacks are indicated for detached building walls.

**Note 2 - Mobile Home Parks and Subdivisions:** Complete development standards for mobile home parks and subdivisions are set forth in Section 6-3C.

**Note 3 - Flexible Yard Setbacks in Planned Districts:** The Planning Commission and City Council may vary required minimum setbacks in planned districts other than mobile home parks. However, the setback from the front facade of a garage to any public or private street right-of-way, including the boundary of sidewalks, must be at least 20 feet.

**Note 4 - Zero Lot Line and Single-Family Attached Development:** Within a common development, one interior side yard may be equal to zero for single-family detached residential use if:

- A. The normal side yard setback requirement must be maintained adjacent to any lot with an existing structure not within the common development, or not otherwise designated for zero lot line use.

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- B. An easement for maintenance of the zero lot line façade is prepared by the developer and filed with the Cass County Register of Deeds, the City Clerk, and the Building Official at the time of application for a building permit.

**Note 5:** The required rear yard area is calculated as the lesser of 20 feet or 20 percent of the lot depth to a minimum of 15 feet.

**4-20 LC – Limited Commercial and Office District**

- A. Purpose: The LC district is intended for neighborhood shopping facilities serving the needs of residents of a surrounding residential area. Allowed commercial and office uses are generally compatible with nearby residential areas in scale and intensity. Site development regulations are intended to ensure compatibility in size, scale, and site characteristics with these residential environments. LC districts are generally most appropriate at intersections of collector and/or arterial streets, at the edge of residential areas, in planned commercial areas in newly developing residential districts, or at other locations where local commercial services are required.

<b>TABLE 4.8: LC SITE DEVELOPMENT REGULATIONS FOR REGULAR LC DISTRICTS</b>			
<b>Regulator</b>	<b>Permitted Residential Uses</b>	<b>All Other Permitted Uses</b>	
Site Area per Housing Unit (SF)	Same Standards as for the R-3 District	NA	
Minimum Lot Area		5,000	
Minimum Lot Width (Feet)		50	
Minimum Yards (Feet)		Lesser of 20% of Lot Depth or 15 Feet	20
Front Yard (Note 1)			10
Side Yard			15
Street Side Yard			
Rear Yard			
Maximum Height (Feet)		40	
Maximum Building Coverage		50%	
Maximum Impervious Coverage		70%	
Floor Area Ratio (Note 2)	0.50		
Maximum Amount of Total Parking Located in Street Yard	60%		

**Note 1 – Flexible Yard Setbacks in Planned Unit Development Districts:** The Planning Commission and City Council may vary required minimum setbacks in PUD districts. Along arterials designated in the City's Comprehensive Development Plan, the Public Works Director may require a deeper front-yard setback.

**Note 2 - Flexible Floor Area Ratios in Planned Districts:** The Planning Commission and City Council may increase the maximum floor area ratio for a development in a PUD district.

- B. Supplemental Development Regulations in for Office and Commercial Uses in the LC District: In order to maintain a residential character in community commercial areas in Plattsmouth, the following design standards shall apply to any office or commercial use developed within the LC district:
1. No single building shall have a building coverage area that exceeds 15,000 square feet without approval of a special use permit, as set forth in Section 12-4.
  2. No street-facing facade may have a continuous length of 100 feet or over without an offset in the building elevation equal to a dimension of at least five feet.
  3. Window area on each street-facing facade shall be equal to at least 20 percent of the area of that facade.

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4. No building facade facing a street shall have the appearance of a rear facade. Architectural details, including materials, textures, patterns, colors, and design features used on the front facade shall be incorporated into all facades facing public streets and easily visible to the public.
5. All buildings and developments shall include a direct, clear, and safe pedestrian connection from adjacent public sidewalks to the entrances of buildings within the development.

**4-21 UC - Urban Corridor District**

- A. Purpose: The UC district recognizes the mixed use character of major urban corridors, including traditional arterials such as Chicago Avenue and emerging mixed-use corridors. These corridors sometimes accommodate a combination of residential, commercial, and office uses. Design standards maintain their character as important urban streets. Some uses in the UC district will require development above normal standards in order to assure compatibility with surrounding uses.

Regulator	One-Family Detached	One-Family Attached (Note 1)	Duplex	Townhouse (Note 1)	Multi-Family	Other Permitted Uses
Site Area per Housing Unit (SF)						
In Conventional Development	5,000	4,000	3,000	3,000	2,000	
In Planned Developments	4,000	3,000	2,500	2,500	1,000	
Minimum Lot Area						
In Conventional Development	5,000	4,000	6,000	2,500	8,000	5,000
In Planned Unit Developments	4,000	3,000	5,000	2,000	8,000	5,000
Minimum Lot Width (Feet)						
In Conventional Development	50	40	60	25	80	40
In Planned Unit Developments	40	30	50	20	80	40
Minimum Yards (Feet)						
Front Yard	20	20	20	20	(Note 5)	(Note 5)
Side Yard (Notes 1, 3)	10	10	10	10	(Note 2)	10
Street Side Yard	10	10	10	10	10	10
Rear Yard	(Note 6)	(Note 6)	(Note 6)	(Note 6)	15	15
Maximum Height (Feet)	40	40	40	40	60	60
Maximum Building Coverage	50%	50%	50%	60%	60%	60%
Maximum Impervious Coverage	60%	60%	60%	70%	70%	70%
Floor Area Ratio	NA	NA	NA	NA	0.80	0.50
Maximum Amount of Total Parking Located in Street Yard	NA	NA	NA	NA	50%	50%

\* The required rear yard area is calculated as 20 percent of the lot depth times the lot width. Provided that this minimum area is maintained, a portion of a residential structure may come as close as 10 feet from a rear lot line.

**Note 1 - Single-Family Attached Townhouse Development:** Regulators are shown on a per unit basis. Side yard setbacks are indicated for detached building walls.

**Note 2 - Multi-Family Development:** Interior side yard is equal to five feet for each story of height.

**Note 3 - Zero Lot Line and Single-Family Attached Development:** Within a common development, one interior side yard may be equal to zero for single-family detached residential use if:

- A. The normal side yard setback requirement must be maintained adjacent to any lot with an existing structure not within the common development, or not otherwise designated for zero lot line use.
- B. An easement for maintenance of the zero lot line façade is prepared by the developer and filed with the Cass County Register of Deeds, the City Clerk, and the Building Official at the time of application for a building permit.

**Note 4 - Flexible Yard Setbacks in Planned Districts:** The Planning Commission and City Council may vary required minimum setbacks in planned districts. However, the setback from the front facade of a garage to any public or private street right-of-way, including the boundary of sidewalks, must be at least 20 feet.

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**Note 5 - Setbacks along Urban Corridors:** Normal minimum front yard setback is 25 feet. Front yard setback may be reduced to 15 feet if:

- A. No parking is placed within the street yard.
- B. The entire street yard area is landscaped, with the exception of driveways to parking areas or pedestrian accesses to the principal building on the site.

This setback flexibility shall not be applied on any street designated as a major arterial by the City's Comprehensive Development Plan without the specific approval of the City's Public Works Director.

**Note 6:** The required rear yard area is calculated as the lesser of 20 feet or 20 percent of the lot depth to a minimum of 15 feet.

- B. Supplemental Development Regulations in for Office and Commercial Uses in the UC District: In order to maintain the fine-grained character of major mixed use corridors in Plattsmouth, the following design standards shall apply to any office or commercial use developed within the UC district:
  - 1. No single building shall have a building coverage area that exceeds 10,000 square feet without approval of a special use permit, as set forth in Section 12-4.
  - 2. No street-facing facade 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.
  - 3. Window area on each street-facing facade shall be equal to at least 20 percent of the area of that facade.
  - 4. Exterior materials shall be brick, stone, wood clapboard, or other exterior materials typical of exterior building materials in common use in Plattsmouth's residential districts or central business district.
  - 5. The dominant roof form shall be a pitched or gabled roof with a minimum roof slope equal to one foot of vertical height to every three feet of horizontal distance. Permitted roof materials may include asphalt shingles, slate or simulated slate shingles, standing seam metal, or other similar roof materials.
  - 6. Each site design shall provide a clear and safe method of pedestrian circulation along the street right-of-way and between the street right-of-way and a principal customer entrance of the business.

### **4-22** GC – General Commercial District

Purpose: The GC district is intended for commercial facilities which serve the needs of markets ranging from several neighborhoods to the overall region. While allowed commercial and office uses are generally compatible with nearby residential areas, traffic and operating characteristics may have more negative effects on residential neighborhoods than those permitted in the LC district. GC districts are appropriate at major intersections, at the junction of several neighborhoods, or at substantial commercial sub-centers.

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TABLE 4.10: GC SITE DEVELOPMENT REGULATIONS		
Regulator	Permitted Residential Uses	All Other Permitted Uses
Minimum Lot Area	Same Standards as for the R-3 High Density Residential District	5,000
Minimum Lot Width (Feet)		50
Minimum Yards (Feet)		
Front Yard (Note 1)		10
Side Yard		0
Street Side Yard		10
Rear Yard		10
Maximum Height (Feet)		60
Maximum Building Coverage		70%
Maximum Impervious Coverage		80%
Floor Area Ratio (Note 2)	1.0	
Maximum Amount of Total Parking Located in Street Yard		100%

**Note 1 - Flexible Yard Setbacks in Planned Unit Development Districts:** The Planning Commission and City Council may vary required minimum setbacks in PUD districts. Along arterials designated in the City's Comprehensive Development Plan, the Public Works Director may require a deeper front-yard setback.

**Note 2 - Flexible Floor Area Ratios in Planned Districts:** The Planning Commission and City Council may increase the maximum floor area ratio for a development in a PUD district.

**Note 3 – Flexible Site Development Regulations for Recreational Vehicle Campgrounds in Planned Unit Development Districts.** The Planning Commission and City Council may vary site development regulations for Recreational Vehicle Campgrounds in Planned Unit Development Districts (**Ordinance No.1920 April 3, 2017**).

**4-23    CB – Central Business District**

A.     Purpose: The CB district provides appropriate development regulations for downtown Plattsburgh, the city's central business district. The grouping of uses is designed to strengthen the town center's role as a center for trade, service, and civic life. Mixed uses are allowed and encouraged within the CB district.

TABLE 4.11: CB SITE DEVELOPMENT REGULATIONS						
Regulator	1-Family Detached	1-family Attached (Note 3)	Duplex	Townhouses (Note 3)	Other Permitted Residential Uses	All Other Permitted Uses
Site Area per Housing Unit (SF)	4,000	3,000	2,500	2,500	1,000	NA
Minimum Lot Area	4,000	3,000	5,000	2,000	5,000	None
Minimum Lot Width (Feet)	40	30	50	20	No Requirement	No Requirement
Minimum Yards (Feet)						
Front Yard	20	20	20	20	0	0
Side Yard	10	10	10	10	0	0
Street Side Yard	10	10	10	10	0	0
Rear Yard*	Note 2	Note 2	Note 2	Note 2	0	0
Maximum Height (Feet)	40	40	40	40	No Limit	No Limit
Maximum Building Coverage	50%	50%	50%	60%	100%	100%
Maximum Impervious Coverage	60%	60%	60%	70%	100%	100%
Floor Area Ratio (Note 1)	NA	NA	NA	NA	NA	5.0

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TABLE 4.11: CB SITE DEVELOPMENT REGULATIONS						
Regulator	1-Family Detached	1-family Attached (Note 3)	Duplex	Townhouses (Note 3)	Other Permitted Residential Uses	All Other Permitted Uses
Maximum Amount of Total Parking Located in Street Yard	NA	NA	NA	NA	NA	0% Along Main Street between Third and Sixth Streets; 50% in Other Areas

**Note 1 - Flexible Floor Area Ratios in Planned Unit Development Districts:** The Planning Commission and City Council may increase the maximum floor area ratio for a development in a planned district.

**Note 2- Rear Yard:** The required rear yard area is calculated as the lesser of 20 feet or 20% of the lot depth of a minimum 15 feet.

**Note 3-Single-Family Attached Townhouse Development:** Regulators are shown on a per unit basis. Side yard setbacks are indicated for detached building walls.

B. Special Regulations and Standards:

1. All new projects developed in the CB district shall be subject to approval of a special use permit by the City Council, after the recommendation of the Planning Commission.
2. New developments in the CB district shall be consistent with the standards of the civic corridor design overlay district, with additional or modified standards established in this section.
3. No building facade facing a street shall have the appearance of a rear facade. Architectural details, including materials, textures, patterns, colors, and design features used on the front facade shall be incorporated into all facades facing public streets and easily visible to the public. All facades with frontage along Main Street shall be designed as front building facades.
4. At least 60 percent of the frontage of any new building along Main Street shall be built to the street property line. Parking shall not be allowed between a building façade and the Main Street right-of-way line.
5. All buildings and developments shall include a direct, clear, and safe pedestrian connection from adjacent public sidewalks to the entrances of buildings within the development.
6. For commercial buildings, transparency and visibility on the street are important virtues in the CB district. Street level facades should be at least 50 percent transparent, composed of windows and doors. Window shapes and sizes should be consistent with historic precedents along Main Street. Typically, historic storefronts included multiple, individual windows rather than the wider sweeps of glass typical of contemporary storefronts. This pattern should generally be maintained in new development. New projects along Main Street shall maintain the overall character and rhythm of buildings within the Plattsmouth National Register District.
7. Upper story commercial facades should similarly be transparent, with windows comprising a minimum of 40 percent of the front façade area. Window shapes are most typically vertical, with ornamental elements such as arches frequently employed.
8. Any single-family detached, single-family attached, duplex, two-family or townhouse residential use lawfully established on the effective date of this ordinance shall be presumed to have an approved special use permit.

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**4-24 BP – Business Park District**

Purpose: The BP district is designed to promote the development of planned business parks that accommodate corporate offices, research facilities, and structures that can combine office, distribution, and limited industrial uses. These facilities serve a more regional audience, but may provide services to local residents. They usually include extensive landscaping, abundant parking facilities, and good visual and pedestrian relationships among buildings.

<b>TABLE 4.12: BP SITE DEVELOPMENT REGULATIONS</b>	
<b>Regulator</b>	<b>Permitted Uses</b>
Minimum District Size (SF)	One Acre
Minimum Lot Area (SF)	10,000
Minimum Lot Width (Feet)	100
Minimum Yards (Feet)	
Front Yard (Note 1)	20
Side Yard	10
Street Side Yard	15
Rear Yard	15
Maximum Height (Feet)	40
Maximum Building Coverage	50%
Maximum Impervious Coverage	70%
Floor Area Ratio (Note 2)	2.0
Maximum Amount of Total Parking Located in Street Yard	50%

**Note 1 - Flexible Yard Setbacks in Planned Unit Development Districts:** The Planning Commission and City Council may vary required minimum setbacks in PUD districts. Along arterials designated in the City's Comprehensive Development Plan, the Public Works Director may require a deeper front-yard setback.

**Note 2 - Flexible Floor Area Ratios in Planned Unit Development Districts:** The Planning Commission and City Council may increase the maximum floor area ratio for a development in a PUD district.

**4-25 GI – General Industrial District**

Purpose: The GI district is intended to reserve sites appropriate for the location of industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development, while assuring that facilities are served with adequate parking and loading facilities.

<b>TABLE 4.13: GI SITE DEVELOPMENT REGULATIONS</b>	
<b>Regulator</b>	<b>Permitted Uses</b>
Minimum District Size (SF)	5,000
Minimum Lot Area (SF)	5,000
Minimum Lot Width (Feet)	50
Minimum Yards (Feet)	
Front Yard (Note 1)	15
Side Yard	0
Street Side Yard	10
Rear Yard	10
Maximum Height (Feet)	72
Maximum Building Coverage	70%
Maximum Impervious Coverage	90%
Floor Area Ratio (Note 2)	1.0
Maximum Amount of Total Parking Located in Street Yard	100%

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**Note 1 - Flexible Yard Setbacks in Planned Unit Development Districts:** The Planning Commission and City Council may vary required minimum setbacks in PUD districts. Along arterials designated in the City's Comprehensive Development Plan, the Public Works Director may require a deeper front-yard setback.

**Note 2 - Flexible Floor Area Ratios in Planned Unit Development Districts:** The Planning Commission and City Council may increase the maximum floor area ratio for a development in a PUD district.

**4-26 HI – Heavy Industrial District**

Purpose: The HI district is intended to accommodate a wide variety of industrial uses, some of which may have significant external effects. These uses may have operating characteristics that create conflicts with lower-intensity surrounding land uses. The district provides the reservation of land for these activities and includes buffering requirements to reduce incompatibility.

<b>TABLE 4.14: HI SITE DEVELOPMENT REGULATIONS</b>	
<b>Regulator</b>	<b>Permitted Uses</b>
Minimum District Size (SF)	10,000
Minimum Lot Area (SF)	10,000
Minimum Lot Width (Feet)	100
Minimum Yards (Feet)	
Front Yard (Note 1)	15
Side Yard	0
Street Side Yard	10
Rear Yard	10
Maximum Height (Feet)	72
Maximum Building Coverage	85%
Maximum Impervious Coverage	100%
Floor Area Ratio (Note 2)	2.0
Maximum Amount of Total Parking Located in Street Yard	100%

**Note 1 - Flexible Yard Setbacks in Planned Unit Development Districts:** The Planning Commission and City Council may vary required minimum setbacks in PUD districts. Along arterials designated in the City's Comprehensive Development Plan, the Public Works Director may require a deeper front-yard setback.

**Note 2 - Flexible Floor Area Ratios in Planned Unit Development Districts:** The Planning Commission and City Council may increase the maximum floor area ratio for a development in a PUD district.

**4-27 Concordance between Comprehensive Development Plan Land Use Categories and Zoning Districts**

- A. General Purpose: Under Nebraska State Statutes, the municipal power to adopt zoning regulations requires approval of a Comprehensive Development Plan, and that the application and administration of such zoning regulations be in accordance with the Comprehensive Development Plan (*Nebraska Rev. Stat. § 19-901-903*). The Plattsmouth Comprehensive Development Plan establishes various land use categories to establish a future vision of the city's urban development and to guide development decisions. These categories provide for general policies and ranges of land uses, but do not represent specific zoning districts. This article establishes a concordance between the future land use categories set forth by the comprehensive development plan and the zoning districts that implement the objectives of these categories.
  
- B. Comprehensive Plan Land Use Categories and Corresponding Zoning Districts: The accompanying table sets forth the future land use categories of the Comprehensive Development Plan and the zoning districts appropriate to each of these categories. Zoning districts established within each of these categories shall be considered consistent with the city's comprehensive development plan. This, however, shall not be interpreted to require the city to approve a rezoning application or specific project solely on the basis of consistency with this table.

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<b>TABLE 4.15: FUTURE LAND USE</b>	
<b>Future Land Use Plan Category</b>	<b>Appropriate Zoning Districts</b>
Urban Reserve	AG
Rural Residential/Residential Estates	RR, R-1
Low-Density Residential	RE, R-1, R-2, MH
Medium-Density Residential	R-1, R-2, MH
High-Density Residential	R-3
Commercial	LC, GC, MU
Mixed Use 1	R-3, LC, UC, MU
Mixed Use 2	R-3, LC, GC, MU
Mixed Use 3	GC, BP, GI, MU
Downtown Mixed Use	CB
Business Park	BP, GC
Industrial	GI, HI

**4-28 Large Project Special Use Permit**

- A. Purpose: The large project special use permit process applies to projects of sufficient size or scale to require public comment and individual review by the Planning Commission and City Council. In order to avoid duplication, this process is intended for projects that would not otherwise receive individual public review or are outside of PUD or MU Districts that offer similar levels of review and control.
- B. Application and Procedures: The following projects require approval of a special use permit, including application of criteria established by Section 12-4.

<b>TABLE 4.16: MINIMUM THRESHOLD REQUIRING L DISTRICT AND SPECIAL USE PERMIT APPROVAL</b>	
<u>Zoning District</u>	
R-2	Townhouse projects with over five acres or 30 units. Other permitted non-residential uses on sites of 10 or more acres.
R-3	Townhouse or multi-family projects with over 10 acres or 60 units. Other permitted non-residential uses on sites of 10 or more acres.
LC	Townhouse or multi-family projects with over five acres or 30 units. Other permitted non-residential uses on sites of five or more acres or a building area of 40,000 SF or more.
UC	Townhouse or multi-family projects with over five acres or 30 units. Other permitted non-residential uses on sites of five or more acres or a building area of 40,000 SF or more.
GC	Eight or more acres or building area of 60,000 SF or more.
CB	All new construction projects.
LI, BP	Eight or more acres or building area of 80,000 SF or more.
GI, HI	Ten or more acres or building area of 100,000 SF or more.

**05**

**ARTICLE FIVE  
OVERLAY DISTRICTS**

**5-1 General Purpose**

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 Plattsburgh.

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.

**5-2 MU – Mixed Use District**

- A. Purpose: The mixed-use (MU) 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 that are appropriate for a mixture of residential, commercial, office, light industrial, 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. All projects developed in an MU district are subject to a special use permit process.
- B. Permitted Uses:
  - 1. Each ordinance establishing an MU district establishes the use types permitted within its boundaries.
  - 2. Each MU district must contain use types within at least two use categories. Use categories include residential, civic, office, commercial, transportation, and industrial uses. No single use category may account for more than 80 percent of the building area or net developable land area of an MU district. Net developable land area includes the land area of a development excluding dedicated public streets, private streets, or other dedicated public land.
- C. Site Development Regulations:
  - 1. The minimum area of any MU district is three acres.
  - 2. 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 Commission, according to the procedure set forth in Article 12. This approval may be granted for a master 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.
  - 3. Applications for approval must contain at a minimum the following information:
    - a. Development agreement providing conditions for approval of the application.
    - b. A detailed site map, including:
      - (1) A boundary survey.
      - (2) Site dimensions.
      - (3) Contour lines at no greater than five-foot intervals.

## OVERLAY DISTRICTS

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- (4) Adjacent public rights-of-way, transportation routes and pedestrian or bicycle systems.
  - (5) Description of adjacent land uses.
  - (6) Utility service to the site and easements through the site.
  - (7) Description of other site features, including drainage, soils or other considerations that may affect development.
  - c. A development plan, including:
    - (1) A site layout, including the location of proposed buildings, parking, open space, and other facilities.
    - (2) Location, capacity, and conceptual design of parking facilities.
    - (3) Description of the use of individual buildings.
    - (4) Description of all use types to be included in the project or area, and maximum floor area devoted to each general use.
    - (5) Maximum height of buildings.
    - (6) Schematic location and design of open space on the site, including a landscaping plan.
    - (7) Vehicular and pedestrian circulation plan, including relationship to external transportation systems.
    - (8) Schematic building elevations and sections if required to describe the project.
    - (9) Grading plans.
    - (10) Proposed sewer and utility improvements.
    - (11) Location, sizes, and types of all proposed signage.
  - d. Specific proposed development regulations for the project, including:
    - (1) The specific use types permitted within the proposed district.
    - (2) Maximum floor area ratios.
    - (3) Front, side, and rear yard setbacks.
    - (4) Maximum height.
    - (5) Maximum building and impervious coverage.
    - (6) Design standards applicable to the project.
  - e. A traffic impact analysis, if required by the city.
- D. Adoption of MU District:
- 1. The Planning Commission and City Council shall review and evaluate each proposal or application for a MU district. The city may impose reasonable conditions as deemed necessary to ensure that projects within a MU district 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.
  - 2. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.
  - 3. The Planning Commission may recommend amendments to MU district applications.
  - 4. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
  - 5. The City Council, after proper notice, shall hold a public hearing and act upon any ordinance establishing an MU district. Proper notice shall mean the same notice established for any other zoning amendment.
  - 6. Upon approval by the City Council, the mixed use 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.

## OVERLAY DISTRICTS

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7. Building Permits. The city shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within a MU district unless it is in compliance with the approved development plan or any approved amendments.
- E. Amendment Procedure: The Zoning Administrator is authorized at his/her discretion to approve amendments to an approved development plan, provided that:
1. A written request is filed with the Zoning Administrator, along with information specifying the exact nature of the proposed amendment.
  2. The amendment is consistent with the provisions of this article.
  3. 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.
  4. Any amendment not conforming to these provisions shall be submitted to the Planning Commission and City Council for action.

### **5-3** CCD - Civic Corridor Design Overlay District

- A. Purpose: This section establishes civic corridors for the City of Plattsburgh. Within these civic corridors, design guidelines apply to major development within the City of Plattsburgh, including multi-family residential, commercial, and industrial uses. These guidelines are designed to ensure that larger-scale or more intensive development within the city maintains good design quality and provides quality places for residents of Plattsburgh. They are also designed to provide an overall level of unity and concordance of development in the city, while maintaining the flexibility to encourage quality design solutions.
- B. Application: **(Amended by Ordinance No. 1935 5/7/2018)**
1. These guidelines and standards apply to all development within 500 feet from the centerline of the following corridors:
    - a. US Highway 75.
    - b. Webster Boulevard.
    - c. Chicago Avenue/South 15<sup>th</sup>.
    - d. Main Street.
    - e. South 22<sup>nd</sup> Street.
    - f. Highway 66.
    - g. Lincoln Avenue.
    - h. Washington Avenue
    - i. Avenue "A" (between North 6<sup>th</sup> Street and North 7<sup>th</sup> Street only)
    - j. East Main Street
  2. The City Council, with the recommendation of the Planning Commission, may from time to time apply the CCD overlay district to other corridors.
- C. Multi-Family Design Guidelines in the CCD District:
1. Purpose: The purpose of multi-family residential design guidelines for the City of Plattsburgh are to:
    - a. Provide a variety of quality housing environments that address the needs of people at various stages of life.
    - b. Allow housing types that respond flexibly to changing preferences and markets.

## OVERLAY DISTRICTS

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- c. Provide high site development standards with site amenities and quality public spaces.
  - d. Create development standards that make higher-density housing more consistent and complementary to Plattsmouth's single-family character.
2. Application: The multi-family design guidelines apply to all multi-family residential development within a CCD overlay district.
3. Site Design Guidelines:
- a. Relationship to Landforms:
    - (1) Buildings shall maintain a minimum buffer of 30 feet from the edge of any special flood hazard area on the most current flood insurance rate maps or from the edge of any wetlands identified by the National Wetlands Inventory or a site specific inventory of wetlands.
    - (2) Site design shall minimize cut-and-fill and, to the maximum degree possible, follow the natural topography of the site.
    - (3) Developments shall preserve natural and scenic areas, streams, and natural drainageways, floodplains, prairies, and wetlands. Developments shall, to the maximum degree possible, preserve individual trees or stands of trees specified by the City of Plattsmouth's list of recommended tree species. Developments that remove specified trees taller than 20 feet or larger than 12 inches in diameter(measured six inches above the ground) shall replace such trees with two (2) trees. All replacement trees must also be listed on the list of recommended species and shall have a caliper of at least three (3) inches.
    - (4) Each project application shall include an inventory of natural and scenic features, and the site development plan shall demonstrate how these areas will be preserved.
  - b. Building Location and Orientation:
    - (1) Buildings shall be grouped in ways that avoid continuous rows of building walls and permit visibility into the development from surrounding streets.
    - (2) Building siting shall define positive open spaces. These spaces may include street environments emphasizing public walks, porches, street-oriented entrances, lighting and street furniture, or more internalized public spaces that serve the needs of the development. All projects shall submit an urban space plan that identifies the nature and programmed use of major open spaces created by the development. Building entrances shall be oriented toward and provide direct entrances to these major open spaces identified by the urban space plan.
    - (3) Typically, buildings that are directly adjacent to single-family residential development shall minimize the mass of buildings that directly face single-family structures. Where parallel orientation is necessary, setbacks from the street shall be greater than the required minimum setbacks and buildings shall include design and elevation features that complement adjacent lower-density development.
  - c. Pedestrian Access:
    - (1) Developments shall provide an internal pathway system that connects individual buildings together and links developments with adjacent residential areas, community open spaces, and adjacent trails. For trails that are proposed in the city's comprehensive plan but are not yet constructed, the development plan shall make provisions for a connection to the trail, and shall be responsible for constructing the connection when the trail becomes available.
    - (2) Sidewalks shall be provided along all public streets.

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- d. Vehicular Access:
    - (1) All multi-family development shall provide internal vehicular connections to adjacent collector or local streets.
    - (2) Developments over five acres shall include a minimum of one community street with detached sidewalks and parkway strips with a minimum width of eight feet between the back of curb and the edge of the sidewalk. The community street shall connect to a public street on both ends.
    - (3) Community streets shall be aligned with local streets in adjacent developed areas.
    - (4) Landscaped parking courts, local loops, and innovative street designs are encouraged to create improved public space and provide for safe, slow movement of vehicles within and around the development.
  - e. Parking:
    - (1) Garages and parking facilities shall be internalized or oriented away from street frontages to the maximum degree possible. Off-street parking shall not be permitted in streetyards adjacent to single-family residential development.
    - (2) Garages or carports shall be limited to six bays in any single structure to avoid long rows of horizontal structures.
    - (3) Parking lot design shall define vehicular circulation routes that are separated by landscaped islands or other site amenities from parking bays and pedestrian pathways.
    - (4) All detached parking structures above the surface of the ground shall relate to the architecture of the project's residential buildings, providing compatible forms, scale, materials, colors, and details.
  - f. Open Space:
    - (1) For multi-family development, at least 40 percent of the development area shall be designated as common open space. Common open space includes open or landscaped areas not occupied by primary or accessory structures, recreational amenities, landscaped pathways that are at least feet away from adjacent streets or driveways, and perimeter landscaped areas.
    - (2) Internal common open spaces shall be defined by residential buildings to the maximum degree possible. These spaces shall have direct access from primary building entrances and shall be directly observable from residential units.
    - (3) Common open spaces shall incorporate and protect significant environmental resources, including drainageways and swales, mature trees, wetlands, and prairies and grassland areas.
    - (4) Detention ponds shall be located, designed, and managed to provide visual amenities or entryway features, or to provide opportunities for passive recreation.
    - (5) Other parking and screening requirements are set forth in Section 08, Landscaping and Screening Requirements.
4. Building Design Guidelines:
- a. Building Mass and Scale:
    - (1) Building mass shall reflect the surrounding neighborhood context, and should place buildings or building elements with greater mass and height away from peripheral streets with adjacent lower-density development.
    - (2) Building mass shall be articulated to reduce apparent scale. Building design should incorporate more massive features at the base and lighter or smaller building elements at upper levels.
    - (3) Buildings should use features such as bays, insets, porticos, porches, or stoops to add scale. Such features shall relate to the overall composition of openings in the building elevation. Breaks in wall planes, gables, balconies, and other features shall be used to maintain residential scale.

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- b. Building Materials:
    - (1) Permitted exterior building materials shall be high-quality, durable materials that include, but are not limited to, brick, native or manufactured stone (such as Renaissance stone or similar masonry materials, shingle or wood siding, stucco or similar materials, and other materials generally associated with quality residential development.
    - (2) The following exterior materials are prohibited: split shakes, rough-sawn wood, concrete block, tilt-up concrete panels, field-painted or prefinished standard corrugated metal siding, standard single- or double-tee concrete systems, or EIFS (Exterior Insulated Finish System).
    - (3) These guidelines are not intended to inhibit creativity and innovation in building design. The Zoning Administrator may permit the use of other materials if the applicant demonstrates that the use of such materials will result in a building that gives a sense of quality and permanence.
  - c. Roof Forms:
    - (1) On two- or three-story buildings, roofs should be residential in scale, incorporating a gable or hip configuration with dormers or other complementary elements. Roof design will be reviewed on an individual basis.
    - (2) Roofs shall effectively screen all rooftop mechanical equipment from public view.
    - (3) Visible roof materials shall include clay or concrete tile, standing seam metal, architectural grade asphalt shingles, architectural metals, copper, natural or synthetic slate, or similar durable materials.
- D. Commercial and Office Design Guidelines within the CCD Overlay District:
- 1. Purpose: The purpose of the commercial and office design guidelines for the City of Plattsburgh are to:
    - a. Encourage development design that reflects the physical character and image of the City of Plattsburgh.
    - b. Develop commercial projects that become valued places within the fabric of the city.
    - c. Set minimum requirements for site design and development, building design, landscaping, and signage without discouraging creativity and flexibility in design.
    - d. Permit safe and convenient transportation access and circulation for motorized and non-motorized vehicles, and for pedestrians.
    - e. Respect the relationship of commercial development to surrounding neighborhoods.
  - 2. Application: The commercial and office design guidelines apply to all commercial and office development within a CCD overlay district. These guidelines also apply to all development within MU district and the planned unit development (PUD).
  - 3. Site Design Guidelines:
    - a. Relationship to Landforms:
      - (1) Buildings shall maintain a minimum buffer of 30 feet from the edge of any special flood hazard area on the most current flood insurance rate maps or from the edge of any wetlands identified by the National Wetlands Inventory or a site specific inventory of wetlands.
      - (2) Site design shall minimize cut-and-fill and, to the maximum degree possible, follow the natural topography of the site.

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- (3) Developments shall preserve natural and scenic areas, streams and natural drainageways, floodplains, prairies, and wetlands. Developments shall, to the maximum degree possible, preserve individual trees or stands of trees specified by the City of Plattsmouth's list of recommended tree species. Developments that remove specified trees taller than 20 feet or larger than 12 inches in diameter (measured six inches above the ground) shall replace such trees with two (2) trees. All replacement trees must also be listed on the list of recommended species and shall have a caliper of at least three (3) inches.

### 4. Building Location and Orientation:

- a. Facades with principal entrances shall be oriented to the project's primary street or to an active pedestrian or public zone within the site. For multi-tenant buildings, at least 50 percent of the entrances shall be oriented to the primary street or pedestrian or public zone. Facades with principal customer entrances may be turned perpendicular to the primary street if they provide a direct pedestrian connection from a public sidewalk to the major customer entrance without interruption by vehicular traffic. The primary street for a development is any arterial or collector street that fronts the development. When the development has two primary streets, the project design may designate one of the streets as primary.
- b. Developments should maximize the amount of parking located in the side or rear of buildings and should locate buildings near their primary fronting streets.
- c. Developments at intersections shall identify or emphasize their corners with significant landscaping or similar public feature, and shall orient buildings to the street corner.
- d. A clearly delineated pathway or route shall show the connection to all principal building or business entrances to adjacent sidewalks or trails.

### 5. Pedestrian Access:

- a. Developments shall provide a continuous walkway connection at least five feet in width from the public sidewalk or right-of-way to the customer entrances of all principal buildings on the site. Developments adjacent to multi-use trails shall provide a direct connection from the trail to the development's internal pedestrian circulation system. For trails that are proposed in the city's comprehensive plan but are not yet constructed, the development plan shall make provisions for a connection to the trail, and shall be responsible for constructing the connection when the trail becomes available.
- b. Multi-building developments shall provide clear and safe walkways at least five feet in width that connect all buildings on the site. Buildings not intended for routine customer access or intended solely for drive-up services are excluded from this requirement.
- c. Where the required walkways specified in this section cross drives, parking aisles, or other vehicular ways, the crosswalks shall be distinguished from driving surfaces by the use of durable, low-maintenance surface materials such as concrete or brick pavers, or scored, colored concrete. Painted concrete is not acceptable in this application.
- d. In parking lots with over 200 stalls, the required walkways specified in this section shall be located in landscaped medians or corridors that include trees and groundcovers for at least 50 percent of their combined length. Landscaped walkways provide credit toward overall site landscaping requirements set forth in Article 08.
- e. Sidewalks no less than eight feet in width and separated by curbs from adjacent vehicular circulation ways shall be provided along the full length of the building along any façade that either includes a customer entrance or adjoins a customer parking area.

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- f. Pedestrian connections to adjacent developments shall be provided. If adjacent properties are undeveloped, the development plan shall indicate how future connections will be provided.
6. Vehicular Access:
- a. Development plans shall minimize the number of access points to adjacent arterial streets. Access from arterial streets shall be controlled and will typically be limited to one point of access per 600 linear feet, or as otherwise determined by the City of Plattsburgh. Developments shall make maximum use of internal cross-easements and shared access points when possible. Cross accesses between adjacent properties shall use traffic calming techniques to reduce speeds.
  - b. Main driveways and drive aisles shall provide a continuous system that connects to the main site entrance.
  - c. Commercial developments are encouraged to provide means of access to residential areas that avoid requiring residents to use arterial streets for short-distance trips. Such connections must be designed to avoid channeling commercial traffic onto residential streets outside of comprehensively planned, mixed-use projects.
  - d. When possible, shared service and delivery access should be provided between adjacent parcels and buildings.
7. Parking:
- a. Parking shall be grouped into parking blocks that are defined by pedestrian paths, landscaping, and buildings.
  - b. A maximum of 400 parking stalls may be located in any one parking block.
8. Signs:
- a. Attached signs shall be designed as an integral part of the building elevation and integrated into the overall design of the building. Attached signs shall be located above the building entrance, storefront opening, or at other locations that are consistent with and emphasize the architectural features of a building.
  - b. All new commercial development shall use monument or ground signs. The width of any vertical element over fifteen feet in height shall not exceed ten feet. Pole signs shall not be permitted for new commercial development covered by these guidelines.
  - c. A landscaped base area shall be provided for monument or ground signs appropriate to the mass and height of the sign. As a guideline, a base area of 1.5 square feet shall be provided for each square foot of sign area. The landscaped area may include trees, shrubs, flowering perennials, ornamental tall grass, fountains, water features, decorative stonework, planters, sculpture, and decorative paving. Turf grass, loose stone, or mulch are not credited for satisfying this requirement.
  - d. Other sign regulations and requirements are set forth in Article 10.
9. Screening:
- a. Developments shall provide year-round screening of loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash collection and processing, and other service functions. Screening shall be provided for 75 percent of the smaller of the height of the feature to be screened or eight feet. Trash enclosure gates shall furnish a steel frame with decorative steel or wood covering, or another design acceptable to the Zoning Administrator. Chain-link fencing with inlaid wood or metal slats shall not be considered acceptable. Screening shall be integrated into the overall design of buildings and landscaping and fully contain the visual impact of these service functions from adjacent public streets and neighboring properties.

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- b. Architectural elements, materials, colors, and design of screening walls, coverings, and fences shall be consistent with the predominant materials, colors, and elements of the primary building.
  - c. Other screening requirements are set forth in Article 08, Landscaping and Screening Requirements.
10. Lighting:
- a. All lighting used to illuminate an off-street parking area, sign, or other structure shall be arranged so as to deflect light away from any adjoining property and from public streets through fixture type and location. When lighting is mounted to the underside of canopies, these lights shall be recessed so that the visible light source is no lower than the plane of the underside of the canopy.
  - b. The maximum height of lighting standards shall be 35 feet, unless the City grants a specific exception as part of the application approval process.
  - c. Exterior lighting of buildings shall be limited to low-level incandescent spotlights, floodlights, and similar illuminating devices hooded in such a manner that the direct beam of any light sources will not glare upon adjacent property or public streets. The City may approve exceptions to these requirements for sports and athletic field lighting, flagpole lighting, public street lighting, temporary lighting for seasonal/holiday or special events, and lighting used for public safety.
11. Building Design Guidelines:
- a. Mass and Scale for Buildings over 20,000 Square Feet:
    - (1) Breaks shall be incorporated into the mass if the building at significant entrances or along walls that front plazas or other significant pedestrian features. Methods of breaks may include towers, pediments, or façade articulations or variations; changes in the horizontal plane; or enhancements in color and materials, consistent with the overall design of the building.
    - (2) Primary building facades shall meet one of the following guidelines:
      - 1) Facades greater than 100 feet shall incorporate projections or recesses in the wall plane with a depth of at least 3 percent of the length of the façade and extending for at least 20 percent of the length of the façade. Maximum uninterrupted length of wall shall be 100 feet.
      - 2) Facades shall display a repeating pattern of at least three cycles of color change, texture change, material change, or expression of structural bays with an offset of at least 12 inches from the ruling plane of the façade.
    - (3) The Zoning Administrator may waive these guidelines if the applicant demonstrates an alternative building design that in the Zoning Administrator's opinion provides visual interest and scale to the building.
  - b. Mass and Scale for Buildings over Two Stories: Building mass and architectural elements shall differentiate between the first floor of the building and upper levels of the façade.
  - c. Architectural Elements:
    - (1) Front facades facing a primary street shall have visible, clearly-defined customer entrances that include at least three of the following elements: canopies or porticos, overhangs, recesses or projections, arcades, raised cornice parapets over the entrance door, distinctive roof forms, arches, outdoor patios or plazas, display windows, or integral planters.
    - (2) At least 20 percent of the surface area of front commercial facades up to a height of 16 feet shall be transparent.

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- (3) Front facades shall utilize variations in color, horizontal planes, materials, patterns, height, and other techniques to provide visual interest and scale to buildings.
  - (4) All rear and side building facades oriented to arterials, collectors, or other streets shall be subject to all requirements for front façade design with the exception of providing customer entrances.
  - (5) Other rear and side facades may use a simplified expression of the materials and design used on other building elevations.
- d. Building Materials:
- (1) 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, prefinished metal panel systems, quality metals such as copper, high quality pre-stressed concrete systems, and drainable (water managed) EIFS (Exterior Insulation and Finish Systems).
  - (2) 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 prefinished standard corrugated metal siding, standard single- or double-tee concrete systems, or barrier type EIFS (Exterior Insulation and Finish Systems).
  - (3) 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.
  - (4) These guidelines are not intended to inhibit creativity and innovation in building design. The Zoning Administrator may permit the use of other materials if the applicant demonstrates that the use of such materials will result in a building that gives a sense of quality and permanence.
- e. Roof Forms:
- (1) Buildings with flat or slightly sloped roofs to drain shall incorporate parapets on all facades that face a public street or residential district. Variations in parapet height and articulation of cornice lines may be used to add interest.
  - (2) Roof forms shall be designed to express various building functions and features, such as entrances.
  - (3) Visible roof materials shall include clay or concrete tile, tern metal, architectural grade asphalt shingles, architectural metals, copper, natural or synthetic slate, or similar durable materials.
  - (4) Mansard or false roofs shall not be used.
- E. Industrial Design Guidelines within a CCD District:
- 1. Purpose: The purpose of industrial design guidelines for the City of Plattsburgh are to:
    - a. Encourage quality industrial development that produces economic development benefits to the city while minimizing negative visual effects associated with industrial uses.
    - b. Develop commercial projects that become valued places within the fabric of the city.
    - c. Set minimum requirements for site design and development, building design, landscaping, and signage without discouraging creativity and flexibility in design.
    - d. Permit safe and convenient transportation access and circulation for motorized and non-motorized vehicles, and for pedestrians.
    - e. Respect the relationship of commercial development to surrounding neighborhoods.
  - 2. Application: The industrial design guidelines apply to all industrial development within a CCD district.

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3. Site Design Guidelines: The industrial design guidelines apply to all industrial development within a CCD district.
- a. Relationship to Landforms:
- (1) Buildings shall maintain a minimum buffer of 30 feet from the edge of any special flood hazard area on the most current flood insurance rate maps or from the edge of any wetlands identified by the National Wetlands Inventory or a site specific inventory of wetlands.
  - (2) Site design shall minimize cut-and-fill and, to the maximum degree possible, follow the natural topography of the site.
  - (3) Developments shall preserve natural and scenic areas, streams and natural drainageways, floodplains, prairies, and wetlands. Developments shall, to the maximum degree possible, preserve individual trees or stands of trees specified by the City of Plattsmouth's list of recommended tree species. Developments that remove specified trees taller than 20 feet or larger than 12 inches in diameter(measured six inches above the ground) shall replace such trees with two (2) trees. All replacement trees must also be listed on the list of recommended species and shall have a caliper of at least three (3) inches.
- b. Building Location and Orientation:
- (1) To the maximum degree possible, the arrangement of buildings on a site should screen operational and loading areas from view from surrounding public streets.
  - (2) To the maximum degree possible, buildings should be clustered within a site.
  - (3) Buildings with customer entrances shall orient such entrances toward the primary access street. Buildings that do not invite public patronage shall maximize landscaped setbacks and buffers from the primary access street. However, service functions, including but not limited to loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash collection and processing, and other service functions, shall be oriented away from primary access streets.
  - (4) Accessory structures shall not front a primary access street and shall be oriented away from public streets, open space, or residential areas.
  - (5) Buildings shall be arranged and oriented so that loading docks, outdoor storage, and truck parking and servicing areas are not visible from any of the principal arterials identified in this section. Site designs shall maximize the amount of landscaping in streetyards along these arterials. Customer and employee parking areas are permitted in these streetyards, subject to other provisions of this ordinance.
- c. Pedestrian Access:
- (1) Developments shall provide a continuous walkway connection at least five feet in width from the public sidewalk or right-of-way to the customer and/or office entrance of the development.
  - (2) Where the walkways required by this section cross driveways, parking aisles, or other vehicular ways, the crosswalks shall be distinguished from driving surfaces by the use of crosswalk striping, change in paving material, or other durable, low-maintenance surface techniques.
- d. Vehicular Access:
- (1) Development plans shall minimize the number of access points to adjacent arterial streets. Access from arterial streets shall be controlled and will typically be limited to one point of access per 600 linear feet, or as otherwise determined by the City of Plattsmouth. Developments shall make maximum use of internal cross-easements and shared access points when possible.
  - (2) To the maximum degree possible, access routes for automobiles and trucks shall be distinguished from one another.
  - (3) Drives and access points shall be directed away from residential areas.

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- e. Parking:
    - (1) Signage and site design shall distinguish employee and visitor parking areas from truck loading and servicing areas when the project is sufficiently large to make such separation functionally necessary.
    - (2) Landscaping shall be used to direct vehicles through the site, distinguish between automobile and truck service areas, manage stormwater, and break up the size of large impervious parking and loading areas.
  - f. Signs:
    - (1) Attached signs shall be integrated into the design of the building elevation.
    - (2) All new industrial development shall use monument or ground signs. The width of any vertical element over 15 feet in height shall not exceed 10 feet. Pole signs shall not be permitted for new commercial development covered by these guidelines.
    - (3) Other sign regulations and requirements are set forth in Article 10.
  - g. Screening:
    - (1) Developments shall provide year-round screening of loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash collection and processing, and other service functions if these features are visible from adjacent public streets or neighboring residential properties. Screening shall be provided for 75 percent of the vertical plane of these features, up to a height of eight feet. Trash enclosure gates shall furnish a steel frame with decorative steel or wood covering, or another design acceptable to the Zoning Administrator. Chain-link fencing with inlaid wood or metal slats shall not be considered acceptable. Screening shall be integrated into the overall design of buildings and landscaping and fully contain the visual impact of these service functions from adjacent public streets and neighboring properties.
    - (2) Architectural elements, materials, colors, and design of screening walls, coverings, and fences shall be consistent with the predominant materials, colors, and elements of the primary building.
    - (3) All rooftop mechanical equipment shall be screened. Acceptable methods of screening include parapet walls or a freestanding screen of a material and color consistent with the building. Screens shall be at least the same height as the equipment they conceal.
    - (4) Other screening requirements are set forth in Article 08, Landscaping and Screening Requirements.
  - h. Lighting:
    - (1) All lighting used to illuminate off-street parking areas, signs or other structures shall be arranged so as to deflect light away from any adjoining property and from public streets through fixture type and location.
    - (2) The maximum height of lighting standards shall be 35 feet, unless the city grants a specific exception as part of the application approval process.
    - (3) Exterior lighting of buildings shall be limited to low-level incandescent spotlights, floodlights, and similar illuminating devices hooded in such a manner that the direct beam of any light sources will not glare upon adjacent property or public streets. The city may approve exceptions to these requirements for sports and athletic field lighting, flagpole lighting, public street lighting, temporary lighting for seasonal/holiday or special events, and lighting used for public safety.
4. Building Design Guidelines:
- a. Mass and Scale:
    - (1) For buildings with office areas that exceed 3,000 square feet, the mass of the office portion of a building shall be distinguished from the mass of the industrial operations portion of the building. Office and/or public entrances

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shall be distinguished by elements that provide both identification and scale to the development. Techniques include but are not limited to the use of canopies or porticos, overhangs, changes in horizontal plane, variations in façade height and design, arches, peaked or special roof forms, and changes in materials.

- (2) At least 30 percent of the surface area of the office and customer-oriented portion of a building shall be of transparent materials.
- b. Building Materials:
- (1) Permitted exterior building materials on primary exposure facades 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, prefinished metal panel systems, quality metals such as copper, high quality pre-stressed concrete systems, architecturally-treated tilt-up concrete panels, and drainable (water managed) EIFS. Primary exposure facades shall include any façade that is oriented to a principal street identified in this section, all building facades that intersect the arterial façade for a distance of 200 feet back from such intersection, and any façade oriented to any other public street, open space, or residential area.
  - (2) The following materials are prohibited on any development affected by these guidelines: split shakes, rough-sawn wood; field-painted standard corrugated metal siding; or barrier type EIFS (Exterior Insulation and Finish Systems).
  - (3) Smooth-faced concrete block, tilt-up concrete, pre-engineered metal buildings, and standard single- and double-tee concrete systems shall be permitted only on facades that are not primary exposure facades.
  - (4) These guidelines are not intended to inhibit creativity and innovation in building design. The Zoning Administrator may permit the use of other materials if the applicant demonstrates that the use of such materials will result in a building that gives a sense of quality and permanence.
- c. Roof Forms:
- (1) Visible roof materials shall include clay or concrete tile, prefinished metal, architectural grade asphalt shingles, architectural metals, copper, natural or synthetic slate, or similar durable materials. Membrane roof systems are prohibited on any routinely visible portion of the roof.
  - (2) Mansard or false roofs shall not be used.

### **5-4** PUD – Planned Unit Development Overlay District

- A. Purpose: The planned unit development (PUD) overlay district is intended to provide flexibility in the design of planned projects, to encourage innovation in project design that incorporates open space and other amenities, and to insure compatibility of developments with the surrounding urban environment. The PUD is intended to promote developments which will be advantageous to Plattsburgh and its urban form by permitting project design that will surpass the quality of development resulting from application of the regulations of conventional zoning districts. The PUD district is not intended to encourage deviations from the city's comprehensive plan or overall development objectives. The district shall not be used to secure approval for projects that do not conform to the city's comprehensive plan.
- B. PUD-1 and PUD-2 Districts: In order to permit maximum applicability of the PUD district, PUD-1 and PUD-2 districts are hereby created.
1. The PUD-1 (general PUD) district is intended to accommodate large, comprehensively-planned developments that are likely to develop over a relatively long period of time. The PUD-1 creates special guidelines and regulations to ensure that development over time conforms to an established master plan. The PUD-1 also may establish the preliminary and/or final plat for those projects that require platting.

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2. The PUD-2 (specific PUD) district is intended to accommodate projects for which the specific design of individual buildings and elements may be determined. Several PUD-2 districts may be incorporated into a single larger PUD-1 district, provided that such projects are consistent with the overall design and development standards of the PUD-1 district.
- C. Criteria for Use: The PUD district is generally intended for use in the following urban contexts.
1. Vacant Land: Areas of substantial open space where the structure of conventional zoning may artificially limit or constrain good urban design, may restrict the achievement of the city's development objectives, or may not be appropriate to changes in technology or demand consistent with the best interests of the City of Plattsburgh.
  2. Community Development Areas: Areas of the city that are in need of rehabilitation or redevelopment, including areas that may be deficient in public facilities or services. In these situations, the PUD district may encourage private investment by recognizing the need for flexibility that conventional zoning regulations do not provide.
  3. Neighborhood Contexts: Areas in which sensitive project design is critical to maintain and protect the value of surrounding residential neighborhoods and other sensitive or vulnerable urban settings.
  4. Large Projects: Projects that have substantial effects on their urban and rural surroundings because of their size and scale.
  5. Large areas that may be zoned prior to development by the Planning Commission and City Council consistent with the Comprehensive Development Plan, but which require individual project approval as development occurs.
- D. Permitted Uses: A planned unit development may include residential, office, commercial, industrial, or public land uses, subject to the requirements of the underlying zoning district. The PUD overlay district may also be used in combination with the MU district.
- E. PUD-1 (General PUD) District Application Procedures:
1. Minimum Size: The minimum size of a PUD-1 district shall be three acres.
  2. Pre-Application Concept Plan: Prior to filing an application for approval of a PUD-1 district, the applicant shall meet with the Zoning Administrator for the purpose of submitting a pre-application concept plan. This plan shall illustrate the conceptual overall plan for the district and shall include at a minimum the information required in the PUD district application requirements table.
  3. The zoning administrator shall review and comment on the proposed concept plan and shall provide the applicant with written comments within 30 days of submission of the concept plan.
  4. The review of the concept plan shall include consideration of the following criteria:
    - a. Land use intensity and density.
    - b. Ability to provide a positive environment for intended uses, including schematic building configurations, arrangements, and general landscaping and site design.
    - c. Use of open space.
    - d. Impact on the surrounding natural and built environment.
    - e. Adequacy of on- and off-site transportation and utility systems to serve the proposed project.
    - f. Consistency with Plattsburgh's Comprehensive Development Plan.

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5. Following review of the pre-application concept plan, the applicant may proceed with filing a formal application for approval of a PUD-1 district. This plan shall illustrate the development master plan for the district and shall include at a minimum the information required in the PUD district application requirements table.
  6. A PUD-1 application shall include a development agreement establishing the development regulations for the district unless initiated by the Planning Commission or City Council. The development agreement shall specify the following regulations:
    - a. Location and quantities of various land uses.
    - b. Maximum floor area ratios and residential densities.
    - c. Maximum building and impervious coverage.
    - d. Front, side, and rear yard setbacks.
    - e. Maximum heights of proposed structures.
    - f. Design standards applicable to the project.
    - g. Incorporation of graphic development plans and drawings into the site development regulations.
  7. The Planning Commission and City Council shall review and evaluate each PUD-1 district application. The Planning Commission and City Council may impose reasonable conditions, as deemed necessary to ensure that a PUD 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.
  8. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application. The Planning Commission may recommend amendments to PUD-1 district applications. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
  9. The City Council, after proper notice, shall hold a public hearing and act upon any ordinance establishing a PUD-1 district. Proper notice shall mean the same notice established for any other zoning amendment.
  10. In their respective reviews of the PUD-1 application, the Planning Commission and City Council shall base decisions on findings of fact as set forth in the criteria presented in Article 12.
  11. Upon approval by the City Council, the development plan and agreement shall become a part of the ordinance creating or amending the PUD district. All approved plans shall be filed with the Zoning Administrator.
  12. Issuance of Building Permits: The City shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within a PUD-1 district unless it is in compliance with the approved development agreement or any approved amendments.
  13. Termination of PUD-1 District: If no substantial development has taken place in a planned unit development district for three years following approval of the district, the Planning Commission may reconsider the zoning of the property and may, on its own motion, initiate an application for rezoning the property.
- F. Planning Commission or City Council Initiated PUD-1 Districts: In some situations, the Planning Commission and/or City Council may initiate or approve a rezoning of an area to a PUD-1 district without submission of a detailed development plan. This action establishes the land uses permitted in an area consistent with the Comprehensive Development Plan, but requires subsequent approval of specific projects through the normal PUD-1 or PUD-2 submission or approval procedures. An application for creation of such a PUD-1 district shall contain the following:

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1. A statement describing the special characteristics of the district and the reason for its creation.
  2. A map indicating the boundaries of the proposed district.
  3. A generalized area development plan for the proposed district, including:
    - a. A land-use component, identifying proposed uses and the extent and location of each use.
    - b. A transportation element, identifying any relevant vehicular, pedestrian, or bicycle transportation improvements necessary to ultimate development of the area.
    - c. A utility service statement, identifying any necessary utility or infrastructure improvements necessary to the ultimate development of the area.
    - d. An urban design element, if applicable, describing design frameworks, building scale and relationships, siting, landscape design, and other guidelines relating to the specific physical or urban environment of the proposed district.
- G. PUD-2 (Specific PUD) District Application Procedures:
1. Minimum Size: A PUD-2 district may be established on a site of any size.
  2. Pre-Application Concept Plan: Prior to filing an application for approval of a PUD-2 district, the applicant shall meet with the Zoning Administrator for the purpose of submitting a pre-application concept plan. This plan shall illustrate the conceptual overall plan for the district and shall include at a minimum the information required in PUD application requirement table.
  3. The Zoning Administrator shall review and comment on the proposed concept plan and shall provide the applicant with written comments within 30 days of submission of the concept plan.
  4. The review of the concept plan shall include consideration of the following criteria:
    - a. If located within a pre-existing PUD-1 district, consistency with the terms and conditions of such district.
    - b. Land use intensity and density.
    - c. Ability to provide a positive environment for intended uses, including schematic building configurations, arrangements, and general landscaping and site design.
    - d. Use of open space.
    - e. Impact on the surrounding natural and built environment.
    - f. Adequacy of on- and off-site transportation systems to serve the proposed project.
    - g. Architectural quality and compatibility of the proposed project with the scale and appearance of surrounding areas.
    - h. Consistency with the City of Plattsmouth's comprehensive plan.
  5. Following review of the pre-application concept plan, the applicant may proceed with filing a formal application for approval of a PUD-2 district. This plan shall illustrate the development master plan for the district and shall include at a minimum the information required in the PUD application requirements table.
  6. The Planning Commission and City Council shall review and evaluate each PUD-2 district application. For PUD-2 applications within a pre-existing PUD-1 district, the review shall be limited to:
    - a. An evaluation of consistency with the land uses development standards and other requirements and regulations of the PUD-1 district.
    - b. Detailed components of the project that were not included in the development standards previously established under the PUD-1 district.

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7. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application. The Planning Commission may recommend amendments to PUD-2 district applications. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
  8. The City Council, after proper notice, shall hold a public hearing and act upon any ordinance establishing a PUD-2 planned unit development district. Proper notice shall mean the same notice established for any other zoning amendment.
  9. In their respective reviews of the PUD-2 application, the Planning Commission and City Council shall base decisions on findings of fact as set forth in the criteria presented in Article 12. The Planning Commission and City Council may impose reasonable conditions, as deemed necessary to ensure that a PUD 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.
  10. Upon approval by the City Council, the development plan and agreement shall become a part of the ordinance creating or amending the PUD-2 district. All approved plans shall be filed with the Zoning Administrator.
  11. Issuance of Building Permits: The City shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within a PUD-2 district unless it is in compliance with the approved development agreement or any approved amendments.
  12. Changes or Modifications to Development Plans in the PUD-2 District: The Zoning Administrator is authorized at his/her discretion to approve amendments to an approved development plan, provided that:
    - a. Changes in the alignment and location of structures do not exceed ten feet in any direction.
    - b. The floor area of any single building is not changed by more than 5 percent, the zoning administration is allowed to grant one administrative amendment under these provisions any further request will require approval of the planning commission.
    - c. All changes are within the allowable floor area ratios established by the project, are consistent with the adopted PD plan, and have been approved in writing by any applicable property owners' association established within the boundaries of the project.
    - d. Any amendment not conforming to these provisions shall be considered tantamount to a new application and shall be submitted to the Planning Commission and City Council according to the procedures for new applications established in this section.
  13. Termination of PUD-2 District: If no substantial development has taken place in a planned development district for three years following approval of the district, the Planning Commission may reconsider the zoning of the property and may, on its own motion, initiate an application for rezoning the property.
- H. PUD Application Requirements Table: The following table sets forth application requirements for the designation of PUD districts. The zoning administrator at his/her discretion may require additional information necessary for the complete consideration of the application.

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<b>TABLE 5.1: PUD APPLICATION REQUIREMENTS</b>				
<b>Application Requirement</b>	<b>PUD-1 Concept Plan</b>	<b>PUD-1 Application</b>	<b>PUD-2 Concept Plan</b>	<b>PUD-2 Application</b>
Location, size, legal description of site.	■		■	
Existing topography at 2'-0" intervals.	■		■	
Location and description of major site features, including tree masses, drainageways, wetlands, soils.	■		■	
A map showing land uses within 200 feet of the boundary of the site.	■		■	
Location of 100-year floodplains.	■		■	
Generalized land use plan.	■		■	
Proposed types and densities of development.	■		■	
Generalized internal and external transportation and circulation system, including pedestrian and bicycle system.	■		■	
General location and size of buildings or building footprints.	■		■	
Statistical summary of the project, including gross and net site area, number of housing units by type, gross floor area of other uses, total amount of parking, and building and impervious surface coverage.	■	■	■	■
Site master plan, including general envelopes of buildings, parking, open space, and other site features.		■		
Description and location of all use types included in the project, including maximum floor areas devoted to each use.		■		■
Location and design of vehicular, bicycle, and pedestrian circulation systems, including relationship to external transportation system.		■		■
Schematic location and development standards for open space, including conceptual landscape plan.		■		
Grading plan at 1'-0" contours, including erosion control plans.		■		■
Building design standards, including height, materials, sections, and other information required to describe the project.		■		■
Location of existing and proposed utilities, sanitary sewers, stormwater facilities, and water, gas, and electrical distribution systems.		■		■
General locations and sizes of signs and street graphics.		■		
Location of driveways or access points adjacent to the project.	■		■	
Proposed site development regulations, including maximum FAR or other density regulators, building and impervious coverage, setbacks, maximum heights, and other design standards specific to the project.		■		
Detailed site plan, displaying specific location or building envelope limits for all major site structures; location of open spaces; parking facilities; and vehicular circulation.				■
Exterior building elevations and floor plans.				■
Detailed open space and landscape plan.				■
Utility plans for all proposed utility improvements.				■
Location, size, style, and lighting of signage, including directional and signage control.				■
Location and design of proposed site lighting.				■
Proposed public and private ownership boundaries, including proposed private lots and common ownership areas.		■		■
Preliminary plat if applicable.		■		
Final plat if applicable.				■
Schedule indicating proposed phasing and scheduling of development.		■		■
Deed restrictions, covenants, agreements, association bylaws, and other documents controlling the use of property, type of construction, or development or activities of future residents.		If Required		If Required
Appropriate bonds to ensure construction of public improvements.		■		■
Application checklist on a form provided by the City.		■		■

**5-5 ED – Environmental Resources Overlay District**

- A. Purpose: The ED (environmental resources) overlay district enables the adoption of special performance standards in combination with site development regulations of a base district for areas of special environmental significance or sensitivity. These areas include hill environments, wetlands, forested areas, areas with unique soil or drainage characteristics, lake, river, or creek districts, and other areas with special environmental characteristics.
  
- B. Procedure for Adoption:
  - 1. Proposal: The creation of an ED overlay district may be initiated by the Planning Commission or the City Council.
  
  - 2. Requirements for Application: An application for the creation of an ED overlay district must include:
    - a. A statement describing the proposed district's special environmental characteristics and stating the reasons for proposal of the district.
    - b. A map indicating the boundaries of the proposed ED overlay district, specifying the base district(s) included within these boundaries.
    - c. Supplemental site development regulations and performance standards that apply to the proposed district.
  
- C. Adoption of District:
  - 1. The Planning Commission and City Council shall review and evaluate each ED overlay district application.
  
  - 2. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.
  
  - 3. The Planning Commission may recommend amendments to ED district applications.
  
  - 4. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
  
  - 5. The City Council, after proper notice, shall hold a public hearing and act upon any ordinance establishing an ED overlay district.
  
  - 6. The ordinance adopting the ED district shall include a statement of purpose, a description of district boundaries, and a list of supplemental site development regulations and performance standards.
  
  - 7. An ordinance adopting an ED overlay district shall require a favorable vote of one more than a simple majority of the City Council for approval if the Planning Commission recommends denial of the ordinance.
  
  - 8. Upon approval by the City Council, each ED overlay district shall be shown on the zoning map, identified sequentially by order of enactment and referenced to the enacting ordinance.
  
  - 9. Any protest against an ED overlay district shall be made and filed as provided by Section 14-405, Revised Statutes of Nebraska, 1943, and amendments thereto.
  
- D. Building Permits: Building or other development permits issued by the city in an ED district shall be consistent with the adopted ED district ordinance.

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- E. Conservation Standards:
1. All subdivisions located within an ED overlay district shall be developed according to Conservation Subdivision Standards, set forth in Article 4 of the Subdivision Regulations.
  2. Development that has the following minimum effects on the landscape shall require approval of a special use permit by the City Council, after a recommendation of the Planning Commission.
    - a. Disturbs or grades more than 5,000 square feet of land that includes slopes in excess of 15 percent.
    - b. Removes more than 5,000 square feet of tree canopy. Tree canopy is the maximum perimeter of vegetation of any tree or group of trees that appear to grow together as viewed from overhead.
    - c. Removes or is within 50 feet of a native prairie, stream, or slope in excess of 30 percent.
  3. All development projects within an ED overlay district shall comply with the following criteria and guidelines:
    - a. Proposed activities shall minimize erosion on the site, siltation of waterways, loss of soils, and deterioration or damage to structures, wildlife habitat, and protective vegetation. For projects requiring review by the City Council, the applicant shall prepare and submit an erosion control plan.
    - b. Proposed projects shall minimize cut and fill necessary to support the land use.
    - c. Proposed activities shall avoid altering existing drainage patterns. Projects shall not increase the volume or velocity of stormwater runoff from the site in such a way as to exceed the capacity of existing drainageways or result in damage to the natural or built environment. The City Council shall seek comments on proposed projects from the Nemaha Natural Resources District.
    - d. The proposed activity shall not adversely affect existing water supplies caused by reducing or impairing the size of an aquifer recharge area or disturbing or polluting the water table.
    - e. Proposed activities shall preserve as much vegetation and tree cover as possible. When large areas of tree cover are destroyed, a tree restoration plan must be developed and implemented. At least one tree shall be replanted for each 1,000 square feet of tree cover that is removed.
    - f. If a project affects a wooded area that serves as a windbreak or corridor for wildlife, a minimum wooded corridor at least 30 feet in width must be retained. This retained area must connect remaining woodland areas.

**5-6**

### **HD – Historic Overlay District**

- A. Purpose: The HD (historic) overlay district enables the adoption of special performance and development standards in combination with site development regulations of a base district for areas of special historical or architectural significance within the City of Plattsmouth. The district recognizes the importance of historically and architecturally significant districts to the character of Plattsmouth and provides for their conservation.
- B. Procedure for Adoption:
1. Proposal: The creation of an HD overlay district may be initiated by the Planning Board, the City Council, or by petition of the owner or owners of 51 percent of the property area within the proposed district.

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2. Requirements for Application: An application for the creation of an HD overlay district must include:
  - a. A statement describing the proposed district's special historical or architectural characteristics and stating the reasons for proposal of the district.
  - b. A map indicating the boundaries of the proposed HD overlay district, specifying the base district(s) included within these boundaries.
  - c. An inventory of the buildings or historically-important sites located within the boundaries of the proposed district.
  - d. Supplemental site development regulations, design criteria, and performance standards that apply to the proposed district.
  
- C. Adoption of District:
  1. The Planning Commission and City Council shall review and evaluate each HD overlay district application.
  2. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.
  3. The Planning Commission may recommend amendments to HD district applications.
  4. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
  5. The City Council, after proper notice, shall hold a public hearing and act upon any ordinance establishing an HD overlay district.
  6. The ordinance adopting the HD overlay district shall include a statement of purpose, a description of district boundaries, and a list of supplemental site development regulations and performance standards.
  7. An ordinance adopting an HD overlay district shall require a favorable vote of 75 percent of the members of the City Council for approval if the Planning Commission recommends denial of the ordinance.
  8. Upon approval by the City Council, each HD overlay district shall be shown on the zoning map, identified sequentially by order of enactment and referenced to the enacting ordinance.
  9. Any protest against an HD overlay district shall be made and filed as provided by Section 14-405, Revised Statutes of Nebraska, 1943, and amendments thereto.
  
- D. Building Permits: Building or other development permits issued by the city in an HD district shall follow procedures for review and approval established within the city by policy or by a Landmarks Preservation Ordinance.

### **5-7** FP/FW – Floodplain/Floodway Overlay District (Ord No. 2017 6/3/2024)

- A. Statutory Authorization, Purpose, and Findings of Fact
  1. Statutory Authorization. The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety, and general welfare. The Legislature, in *Nebraska Revised Statutes* Sections 31-1001 to 31-1022 (as amended) has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city, or village with

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zoning jurisdiction over the floodprone area.

2. 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 5-7(A)(3) by applying the provisions of this ordinance to:

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

3. Findings of Fact:

- a. Flood Losses Resulting from Periodic Inundation: Flood hazard areas of the City of Plattsmouth, Nebraska, are subject to inundation which results in loss of life or 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.
- b. General Causes of these Flood Losses: These flood losses are caused by the cumulative effect of obstruction in floodways causing increases in flood heights and velocities as well as the occupancy of flood areas by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damages.

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

B. General Provisions.

1. Land to which Ordinance Applies: This ordinance shall apply to all lands within the jurisdictions of the City of Plattsmouth identified on the Flood Insurance Rate Map (FIRM) panels #31025C0140D, #31025C0255D, #31025C0260D, and #31025C0300D dated November 26, 2010 and #31025C0115E and #31025C0120E dated August 14, 2024 as Zones A, A1-30, AE, AO, or AH and within the Zoning Districts FW and FF established in Section 5-7(C) of this ordinance. In all areas covered by this ordinance, no development shall be allowed except upon the issuance of a floodplain development permit to develop, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council may reasonably impose for the promotion and maintenance of the general welfare and health of the inhabitants of the community.

2. 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 of the effective Flood Insurance Rate 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 floodplain administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the 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

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location of the district boundary shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit their own technical evidence if so desired.

3. Compliance: No development located within known flood hazard areas of the community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.
  4. Abrogation and Greater Restrictions: It is not intended by this ordinance to repeal, abrogate, or impair any existing 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.
  5. 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 statute.
  6. Warning and Disclaimer of Liability: The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Plattsmouth or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made there under.
- C. 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 flood fringe overlay district (FF) as identified in the Flood Insurance Study #31025CV000B dated August 14, 2024 and accompanying FIRM panels as established in Section 5-7(B)(1). The flood fringe overlay district shall correspond to flood zones A, AE, A1-30, AH, AO, AR, A99, and floodway areas in Zone AE that are identified on FIRM panels. The floodway overlay district shall correspond to the floodway areas in Zone AE that are identified on the FIRM panels. Within these districts, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.
- D. Floodplain Management Administration:
1. Designation of Floodplain Administrator: The Zoning Administrator of the City of Plattsmouth is hereby designated as the local floodplain administrator. The designated floodplain administrator shall, within three years of being designated, become a Certified Floodplain Administrator/Manager. If office of the Zoning Administrator is unfilled, the Mayor shall designate a City officer or such other person as the Mayor may deem qualified to assume the duties and responsibilities of floodplain administrator. Unless otherwise provided by the City Council, the Lower Platte South Natural Resources District shall assist the City of Plattsmouth on interpretation of floodplain/floodway rules and regulations. The floodplain administrator shall obtain comments from the NRD as part of his/her review of all proposed activity in this overlay district.
  2. Permits Required: A floodplain development permit shall be required before any development, construction, or substantial improvement is undertaken. No person, firm, corporation, government agency, or other entity shall initiate any floodplain development without first obtaining floodplain development permit.
  3. Duties of the Floodplain Administration: The floodplain administrator shall administer, implement, and enforce the provisions of this ordinance. The duties of the floodplain administrator shall include, but not be limited to:

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- a. Review, approve, or deny all applications for floodplain development permits;
  - b. Review all development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied;
  - c. 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;
  - d. Review all subdivision applications and other proposed new development, including manufactured home parks and subdivision, to determine whether such proposals will be reasonable safe from flooding;
  - e. 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;
  - f. Notify the Lower Platte South Natural Resources District Floodplain Management Section of any proposed construction and development activity in floodplain areas and/or upon land situated within the floodplain/floodway overlay zoning district;
  - g. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
  - h. 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;
  - i. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed;
  - j. Verify, record, and maintain record of all improved or damaged structures to ensure compliance with standards in this ordinance;
  - k. Track values of improvements and market value with permits;
  - l. Ensure consistent market value estimations to evaluate against damage or improved values;
  - m. Ensure the comprehensive development plan as amended in consistent with this ordinance; and
  - n. In the event the floodplain administrator discovers work done that does not comply with applicable laws or ordinances, the floodplain administrator shall revoke the permit and work to correct any possible violations in accordance with this ordinance.
4. Application for Permit and Demonstration of Compliance.
- a. 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 proposed development and estimated cost to be covered by the 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 definitively locate the proposed building or work;
    - (3) Indicate the use or occupancy for which the proposed work is intended;
    - (4) Be accompanied by plans and specifications for the proposed construction;
    - (5) Be signed by the permittee or authorized agent who may be required to submit evidence to indicate such authority;
    - (6) If the proposed development is located entirely or partially within a flood plain, the applicant shall provide all information in sufficient detail and clarity to enable the floodplain administrator to determine that:
      - (a) All such proposals are consistent with the need to minimize flood damage;
      - (b) All utilities and facilities such as sewer, gas, water, electrical, and other systems are located and constructed to minimize or eliminate flood damage;
      - (c) Structures will be anchored to prevent flotation, collapse, or lateral movement;
      - (d) Construction materials are flood resistant;

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- (e) Appropriate practices to minimize flood damage have been utilized; and
    - (f) Electrical, heating, ventilation, air conditioning, plumbing, and any other service facilities have been designed and located to prevent entry of floodwaters.
  - (7) If the proposed development includes new and/or substantially improved structures, an elevation certificate based upon the finished construction certifying the elevation of the lowest floor, including basement, and other relevant building components shall be provided to the floodplain administrator and be completed by a licensed surveyor, engineer, or architect;
  - (8) If floodproofing is proposed to be utilized for a structure, a floodproofing certificate completed by a licensed professional engineer or architect;
  - (9) If the development is proposed in the floodway, a no-rise certificate completed by a licensed professional engineer;
  - (10) If the proposed development will require a Letter of Map Revision (LOMR) or a Letter of Map Revision Based on Fill (LOMR-F), the information required in Section 5-7(D)(4)(b);
  - (11) If the proposed development will cause any of the following conditions, the information required in Section 5-7(D)(4)(c):
    - (a) A rise in the base flood elevations within the floodway; or
    - (b) Any development in Zones A, A1-30, and/or AE without a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
    - (c) Alteration or relocation of a stream.
  - (12) Provide such other information as reasonably may be required by the Zoning Administrator.
- b. Supplemental Information and Other Requirements for LOMR and LOMR-F Applications. Federal regulations in Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.5 and 65.6 allow for changes to the special flood hazard area through a Letter of Map Revision (LOMR) or a Letter of Map Revision Based on Fill (LOMR-F), provided the community determines that the land and any existing or proposed structures that would be removed from the floodplain are “reasonably safe from flooding.” The community acknowledgement form asserting this is required for LOMR and LOMR-F applications and must be signed by the floodplain administrator. The floodplain administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:
- (1) Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F;
  - (2) Applicant shall demonstrate that the property and any existing or proposed structures will be “reasonably safe from flooding,” according to the minimum design standards in FEMA Technical Bulletin 10-01; and
  - (3) All requirements listed in the Simplified Approach in FEMA Technical Bulletin 10-01 shall be met and documentation from a registered professional engineer shall be provided. If all these requirements are not met, applicant must provide documentation in line with the Engineered Approach outlined in FEMA Technical Bulletin 10-01.
- c. Supplemental Information and Other Requirements for LOMR Applications. If the proposed development will cause any of the conditions listed in Section 5-7(D)(4)(a)(11), the applicant shall:
- (1) Apply to FEMA for conditional approval of such action via the Conditional Letter of Map Revision process (as per Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.12) prior to the permit for the encroachments; and
  - (2) Supply the fully approved package to the floodplain administrator including any required notifications to potentially affected property owners.

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### 5. Flood Data Required

- a. All areas identified as Zone A areas on the FIRM are subject to inundation of the base flood elevation; however, the base flood elevations are not provided. The Zone A areas shall be subject to all development provisions of this ordinance. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state, or other sources, including from a study commissioned by the applicant pursuant to best technical practices. Further, in cases of proposed development within unnumbered A zones, the developer's engineer shall be required to conduct the necessary studies to determine the 100-year flood elevation and its extent in relation to such development.
- b. Until a floodway has been designated, no development, including landfill, or substantial improvement may be permitted within the floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood elevation more than one (1) foot at any location as shown in the Flood Insurance Study or on base flood elevation determinations.

### E. Standards for Floodplain Development.

1. Permit Required. No permit for development shall be granted for new construction, substantial improvement, or other improvements, including the placement of manufactured homes, within the identified floodplain unless the conditions of this section are satisfied.
2. Alteration or Relocation of a Watercourse.
  - a. A watercourse or drainway shall not be altered or relocated in any way that in the event of a base flood or more frequent flood will alter the flood carrying characteristics of the watercourse or drainway to the detriment of upstream, downstream, or adjacent locations.
  - b. No alteration or relocation shall be made until all adjacent communities that may be affected by such action and the Nebraska Department of Natural Resources have been notified and all applicable permits obtained. Evidence of such notification shall be submitted to the Federal Emergency Management Agency.
3. Design and Construction Standards.
  - a. Anchoring. All buildings and structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including, the effects of buoyancy.
  - b. Building Materials and utilities. All buildings and structures shall be constructed (1) with materials resistant to flood damage, utilizing methods and practices that minimize flood damages and (2) with electrical, heating, and ventilation that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - c. Drainage. Drainage. Within AH and AO zones, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
  - d. Water Supply and Sanitary Sewer Systems.
    - (1) All new or replacement water supply systems and/or sanitary sewage systems shall be located, designed, and constructed to minimize or eliminate flood damages to such systems and the infiltration of floodwaters into the systems.
    - (2) All new or replacement sanitary sewage systems shall be designed to

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- minimize or discharge from the systems into floodwaters.
      - (3) All on-site waste disposal systems shall be located so as to avoid impairment or contamination from them during flooding.
      - (4) New or replaced septic systems are prohibited in the Floodway and Flood Fringe Overlay Districts
    - e. Utilities. All utility and sanitary facilities shall be elevated or floodproofed one foot above the regulatory flood elevation. Such floodproofing is permitted only for nonresidential properties.
    - f. Storage of Materials 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 materials 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.
    - g. Recreational Vehicles. Recreational vehicles placed on sites within the floodplain and floodway shall either (1) be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, or (2) 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.
    - h. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall conform to the following:
      - (1) All such proposals shall be consistent with the need to minimize flood damage;
      - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems, are located, elevated, and constructed to minimize or eliminate flood damage;
      - (3) Adequate drainage shall be provided so as to reduce exposure to flood hazards; and
      - (4) Proposals for development (including proposals for manufactured home parks and subdivisions) of five acres or 50 lots, whichever is less, shall be supported by hydrologic and hydraulic analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for Conditional Letters of Map Revision and a Letters of Map Revision.
- 4. Elevation and Floodproofing Requirements:
  - a. Residential Structures
    - (1) In Zones A, AE, A1-30, and AH, any new construction or substantial improvements of structures shall have the lowest floor, including basement, elevated one foot above the base flood elevation.
    - (2) In Zone AO, 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 FIRM or, if no depth number is specified on the FIRM, at least as high as three (3) feet.
    - (3) In the floodway, new structures for human habitation are prohibited.
  - b. Nonresidential Structures
    - (1) In Zones A, AE, A1-30, and AH, any new construction or substantial improvements of nonresidential structures shall:
      - (a) have the lowest floor, including basement, elevated one (1) foot above the base flood elevation or;

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- (b) together with attendant utility and sanitary facilities, shall be floodproofed so that anything below one (1) foot above the base flood elevation (a) the structure is watertight with walls substantially impermeable to the passage of water and (b) the structure has structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect 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. A floodproofing certificate shall be provided to the Zoning Administrator as set forth in Section 5-7(D)(4)(a)(8).
  - (2) In Zone AO, all new construction and substantial improvements of nonresidential structures shall:
    - (a) have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the FIRM or, if no depth number is specified on the FIRM, at least as high as three (3) feet; or
    - (b) together with attendant utility and sanitary facilities, floodproofed so that anything below one (1) foot above the base flood elevation (a) the structure is watertight with walls substantially impermeable to the passage of water and (B) the structure has structural components with 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. A floodproofing certificate shall be provided to the Zoning Administrator as set forth in Section 5-7(D)(4)(a)(8).
- c. Space Below Floors
  - (1) All fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be used solely for the parking of vehicles, building access, or limited storage of readily removable items.
  - (2) All fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces or 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;
    - (b) the bottom of all openings shall be not higher than one foot above grade; and
    - (c) openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- d. Manufactured Homes: Within any floodplain, manufactured homes shall be prohibited.
- e. Accessory Structures. Accessory structures may have the lowest floor below one (1) foot above base flood elevation provided that the structure complies with this Section 5-7(E)(4)(e) and all other standards applicable to accessory structures in this ordinance.
  - (1) The structure shall not be used for human habitation.
  - (2) The use of the structure must be limited to parking of vehicles or storage of items readily removable in the event of a flood warning.
  - (3) The floor area shall not exceed 800 square feet.
  - (4) The structure shall have a low damage potential.
  - (5) The structure must be adequately anchored to prevent flotation, collapse, or

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- other lateral movement.
- (6) The structure shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
    - (a) a minimum of two openings having a net area of not less than one (1) square inch for every one (1) square foot of enclosed space;
    - (b) the bottom of all openings shall not be higher than one (1) foot above grade, and
    - (c) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.
  - (7) No utilities shall be installed except electrical fixtures in the structure, which must be:
    - (a) elevated to or above one (1) foot above the base flood elevation; or
    - (b) floodproofed so that below one (1) foot above the base flood elevation they are: (i) watertight and substantially impermeable to the passage of water and (ii) capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this Section 5-7(E)(4)(e)(7) are satisfied. A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 5-7(D)(4)(a)(8);
    - (c) The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
    - (d) If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.
- f. Agricultural Structures. In lieu of the floodproofing standards for nonresidential structures set forth in Section 5-7(E)(4)(b), new construction and substantial improvement of agricultural structures located in the floodplain may comply with the floodproofing and other standards set forth in this Section 5-7(E)(4)(f).
- (1) The agricultural structure shall have low damage potential (amount of physical damage, contents damage, and loss of function).
  - (2) The agricultural structure shall not increase risks and pose a danger to public health, safety, and welfare if flooded and contents are released, including but not limited to the effects of flooding on manure storage, livestock confinement operations, liquified natural gas terminals, and production and storage of highly volatile, toxic, or water-reactive materials.
  - (3) The agricultural structures shall utilize flood damage-resistant materials below the base flood elevation.
  - (4) The agricultural structure shall
    - (a) have mechanical, electrical, and utility equipment elevated to or above one (1) foot above the base flood elevation; or
    - (b) floodproofed so that below one (1) foot above the base flood elevation they are: (i) watertight and substantially impermeable to the passage of water and (ii) capable 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. A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 5-7(D)(4)(a)(8).
  - (5) The agricultural structure shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

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- (a) minimum of two openings having a net area of not less than one (1) square inch for every one (1) square foot of enclosed space;
    - (b) the bottom of all openings shall not be higher than one (1) foot above grade, and
    - (c) (c) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.
  - (6) If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.
- F. Floodway Overlay District:
  - 1. 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 and provided that they do not require structures, fill, or storage of materials or equipment. These uses are subject to all the standards of Section 5-7(E)(3) and (4). The following are recommended uses for the Floodway Overlay District: (a) agricultural uses such as general farming, pasture, nurseries, and forestry; (b) residential uses such as lawns, gardens, parking, and play areas; (c) nonresidential uses such as loading areas, parking, and airport landing strips; and (d) public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, and wildlife and nature preserves.
  - 2. No encroachments, including fill, new construction, substantial improvements, and other development shall be permitted within the floodway unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during the occurrence of the base flood discharge.
  - 3. New structures, including manufactured homes, for human habitation shall be prohibited.
  - 4. In Zone A areas, obtain, review, and reasonably utilize any floodway data available through federal, state, or local sources, including subdivisions under section 5-7(E)(3)(h) "Subdivisions", in meeting the standards of this section.
- G. Request for Variances from Flood Fringe District and Floodway Overlay District Requirements:
  - 1. The Board of Adjustment, as established by the City of Plattsburgh, shall hear and decide appeals and requests for variances from the requirements of this ordinance.
  - 2. The 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 Section.
  - 3. At the time of application, the applicant for a variance shall be given a written notice over the signature of a community official that:
    - a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100 of insurance coverage, and
    - b. 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.
  - 4. In evaluating such appeals and requests, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance and:
    - a. The danger that materials may be swept onto other lands to the injury of others;
    - b. The danger of life and property due to flooding or erosion damage;

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- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, future owners, and neighboring properties;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity 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 time of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effect 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.
5. A variance from the terms of this Section 5-7 shall not be granted unless a written application is submitted demonstrating the facts and circumstances required in this Section 5-7(G)(5), in addition to the requirements of Section 12-10(B)(5), have been met by the applicant.
- a. In addition to the application requirements set forth in Section 12-10, the application must also demonstrate that:
    - (1) good and sufficient cause exists to grant the variance;
    - (2) failure to grant the variance would result in exceptional hardship to the applicant;
    - (3) 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;
    - (4) the variance, if requested to be issued for the repair or rehabilitation of historic structures, will not include proposed repair or rehabilitation which would 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;
    - (5) the variance, if requested to be issued within any designated floodway, would not result in any increase in flood levels along the floodway profile during the base flood discharge ; and
    - (6) the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - b. Generally, variances may only 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 and which comply with all other requirements of this ordinance; provided, as lot size increases beyond one-half acre, the technical justification required for issuance the variance increases.
  - c. The Board of Adjustment shall not grant a variance unless it makes the findings required by Section 12-10 and Nebraska law and makes the following findings in addition thereto:
    - (1) good and sufficient cause exists to grant the variance;
    - (2) failure to grant the variance would result in exceptional hardship to the applicant;
    - (3) 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;
    - (4) the variance, if requested to be issued for the repair or rehabilitation of historic structures, does not include proposed repair or rehabilitation which

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would 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;

- (5) the variance, if requested to be issued within any designated floodway, will not result in any increase in flood levels along the floodway profile during the base flood discharge;
- (6) the variance is the minimum necessary, considering the flood hazard, to afford relief; and
- (7) where lot size is greater than one-half acre, the technical justification provided by the application is sufficient to warrant the variance.

### H. Zoning Regulations for Nonconforming Uses:

1. Continuation of Nonconforming Uses: A structure or the use of a structure or premises which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
  - a. No such use or substantial improvement of that use shall be extended, changed, enlarged or altered in a way which increases its nonconformity.
  - b. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The Public Works Director or his/her designee shall notify the Building Inspector, in writing, of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
  - c. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue a nonconforming uses.
2. Replacement of Residential Uses: If any residential nonconforming use of a 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 within those areas identified as floodway (FW). 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.
3. Replacement of Nonresidential Uses: If any nonresidential nonconforming use of a structure is destroyed by any means, including flood, it should not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except 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.

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

1. Area of Special Flood Hazard: The land in the floodplain within a community subject to 1 percent or greater chance of flooding in any given year.
2. Base Flood means the flood having one (1) percent chance of being equaled or exceeded in any given year.
3. Base Flood Elevation: Elevation indicated to which floodwaters are expected to rise during the base flood.
4. Basement: as used in this Section 5-7, any area of the building having its floor subgrade

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(below ground level) on all sides.

5. Channel: A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow, thus, is that water which is flowing within the limits of a defined channel.
6. Community: Any state or area or political subdivision thereof which has authority to adopt and enforce floodplain management regulations for the area within its jurisdiction.
7. Development: As used in this Section 5-7, any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion or alteration of buildings or other structures; the placement of manufactured homes; streets or other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; or obstructions.
8. Existing Construction (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."
9. Existing Manufactured Home Park or Subdivision: 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.
10. Expansion of an Existing Manufactured Home Park or Subdivision: the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
11. Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters;
  - b. The unusual and rapid accumulation of runoff of surface waters from any source.
12. Flood Fringe: That area of the floodplain, outside of the floodway, that has a one percent chance of flood occurrence in any one year.
13. Flood Insurance Rate Map (FIRM): An official map of a community, on which the flood insurance study has delineated the flood hazard boundaries and the zones establishing insurance rates applicable to the community.
14. Flood Insurance Study: 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.
15. Floodplain (FP): Any land area susceptible to being inundated by water from any source (see definition of "flooding"). Floodplain includes flood fringe and floodway. Floodplain and special flood hazard area are the same for use by this ordinance.
16. Floodproofing: Any combination of structural and non-structural additions, changes, or adjustments to structures that would reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.

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17. Floodway (FW): 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 (1) foot.
18. Freeboard: 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 heights 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.
19. Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
20. 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.
21. Letter of Map Revision (LOMR): Letter from FEMA officially revising the current National Flood Insurance Program (NFIP) map to show changes to floodplains, regulatory floodways, or flood elevations.
22. Letter of Map Revision Based on Fill (LOMR-F): FEMA modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.
23. Lowest Floor: 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.
24. Manufactured Home: As used in this Section 5-7, 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 connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles
25. Manufactured Home Park or Subdivision: As used in this Section 5-7, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
26. National Flood Insurance Program (NFIP): Program created by U.S. Congress in 1968 through the National Flood Insurance Act of 1968. The NFIP has two purposes: to share the risk of flood losses through flood insurance and to reduce flood damages by restricting floodplain development.
27. New Construction: For floodplain management purposes, structures for which the "start of

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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.

28. New Manufactured Home Park or Subdivision: means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
29. Principally Above Ground: At least 51 percent of the actual cash value of the structure is above ground.
30. Recreational Vehicle: “Recreational Vehicle” shall mean 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 temporarily living quarters for recreational, camping, travel, or seasonal use.
31. Special Flood Hazard Area (SFHA): The land in the floodplain within a community subject to 1 percent or greater chance of flooding in any given year.
32. Start of Construction: For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L97-348) includes substantial improvement, and means the date the building permit was issued, providing the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start 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 street and/or walkways, nor does it include excavation for a basement, footings, or foundations or the erection of temporary forms, nor does it include the installation of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
33. Structure: As used in Section 5-7, 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.
34. Substantial Damage: 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.
35. Substantial Improvement:
  - a. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
    - (1) Before the improvement or repair is started, or
    - (2) If the structure has been damaged and is being restored, before the damage occurred.
  - b. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
    - (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely

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- (2) necessary to assure safe living conditions, or  
Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- 36. Variance: is a grant of relief to an applicant from the requirements of this ordinance that allows construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.
- 37. Violation: means a failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

### **5-8 AV – Aviation Overlay District**

- A. Purpose: This zoning district is created to be appended to a primary zoning district and provides for restrictive land uses occurring near all public owned heliports and airports, extended out three miles in all directions from the adjacent boundaries of the airport. The governing map shall be the current Airport Zoning Map of the given facility.
- B. Zone Description
  - 1. The Operation Zones shall be located along each existing or proposed runway, landing strip or other portion of the air field used regularly, for the landing or taking off of airplanes and shall begin or end at each end of each landing strip and 200 feet beyond the end of each runway and shall be 1000 feet in width for each instrument runway or landing strip and 500 feet in width for all other runways and landing strips.
  - 2. The Approach Zone shall begin at the ends of their respective Operation Zones and shall extend and expand uniformly centered along the extended center line of the respective runway or landing strip, to the outer boundary of the Approach Zone at a rate of 30 feet of width for each 100 feet of horizontal length for the instrument runway or landing strip and 20 feet in width for each 100 feet of horizontal length for all other runways.
    - a. The Inner Area of each Approach Zone shall be that portion of the Approach Zone beginning at the end of the respective or proposed Operation Zone and extending to the intersection of the controlling glide angle with a plane 150 feet above the highest elevation of the end of the respective runway or landing strip.
    - b. The Outer Area of each Approach Zone shall be the area between the outer limit of the Inner Area of the Approach Zone and the outer limit of the Approach Zone.
  - 3. The Transition Zone shall be the areas bounded by the Operation Zones of the Hazard Area, the sides of contiguous inner areas of Approach Zones and the Outer Limits of the Transition Zones; said outer limits of the Transition Zones being the intersections, at elevations of 150 feet above the highest elevation at the ends or edges of the closest runway or landing strip, or proposed runway or landing strip, of a series of contiguous planes originating from bases established by the Operation Zones of the Hazard Area and the edges of adjacent inner areas of Approach Zones, said planes rising from their respective bases along lines perpendicular to the centerline of the landing strip or runway at the rate of one foot vertically to seven feet horizontally to the lines of intersections previously referred to.
  - 4. The Turning Zones shall be comprised of all portions of the Hazard Area not contained in the Operations Zones, Approach Zones and in the Transition Zones. The Outer Limits of the Turning Zones shall be a series of points forming a line which is the horizontal distance of three statute miles from the nearest points along the airport property.

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### C. Permitted Principal Use

1. Any permitted principal uses permitted in the Primary District, provided all buildings, structures and obstacles meet the height requirements as established by this regulation.

### D. Permitted Conditional Uses

1. Any permitted Conditional Uses in the Primary District, provided all buildings, structures and obstacles meet height requirements as established by this regulation.

### E. Height Requirements

1. No building, transmission line, communication line, pole, tree, smoke-stack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow:
  - a. In Inner areas of Approach Zones to a height above the elevation of the nearest point on the end or proposed end of said instrument runway or landing strip in excess of 1/50, and all other runways or landing strips in excess of 1/40 of the distance from the end of the Approach Zone (the end nearest the runway or landing strip) to said structure of object;
  - b. In the Outer Area of Approach Zones and in Turning Zones to a height in excess of 150 feet above the elevation at the end of the nearest runway or landing strip.
  - c. In the Transition Zones to a height above the planes forming the transition slopes; and
  - d. In the existing or proposed Operation Zones to a height above the existing or proposed finished grade of said runway or landing strips or surface of the ground.

### F. Other Requirements

1. Any permitted use shall first receive administrative approval pursuant to Article 4, Article 6 and Article 8 of this Regulation.

**06**

**ARTICLE SIX  
SUPPLEMENTAL USE REGULATIONS**

**6-1 Purpose**

The Supplemental Use Regulations set forth additional standards for certain uses located within the various zoning districts. These regulations recognize that certain use types have characteristics that require additional controls in order to protect public health, safety, and welfare. These regulations complement the use regulations contained in Article Four of this ordinance.

**6-2 Supplemental Use Regulations: Agricultural Uses**

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, state, or federal ordinance or statute.

- A. Crop Production in Non-Agricultural Districts: Crop production is a permitted interim use in any zoning district.
- B. Horticulture and Crop Production - Retail Sales: Retail operation of garden centers or roadside stands associated with a primary agricultural use may be permitted in the AG district, subject to the following requirements:
  - 1. Garden Centers:
    - a. A garden center is a building or premises used for the retail sale of plant materials or items useful in the growing or display of lawns, gardens, and plants.
    - b. Garden centers must conform to all site development regulations for the zoning district.
    - c. Any garden center adjacent to a residential district must maintain a 20-foot landscaped bufferyard, consistent with the standards established in Sections 8-8 and 8-9.
  - 2. Roadside Stands:
    - a. A roadside stand is a facility used on a temporary or seasonal basis for the retail sale of produce grown largely on adjacent or surrounding agricultural lands.
    - b. A roadside stand may be located within a required front yard but no closer than 40 feet to the edge of a traveled roadway.
    - c. A roadside stand may operate for a maximum of 180 days in any one year.
- C. Confined Animal Feeding Operations (CAFO): No new confined animal feeding operations shall be established within the zoning jurisdiction of the City of Plattsburgh.
- D. Animal Production in the RR District:
  - 1. Breeding and raising of small animals and fowl, such as birds, rabbits, chinchilla, and hamsters is permitted in the RR district, provided that any building housing such animals shall be at least 50 feet from any property line and 25 feet from any dwelling unit on the site. Any such activity must be located entirely within a rear yard. The raising of fowl shall be limited to 50 birds per acre, up to a maximum of 500 birds.
  - 2. Within the RR district, any lot of two acres and over may maintain one horse, llama, and other hooved animal or bipedal bird. Such a lot may have one additional animal for each additional full acre of lot area over two acres, up to a maximum total of five animals.

**6-3 Supplemental Use Regulations: Residential Uses**

- A. Two-Family Residential:
  - 1. The second dwelling unit shall be located to the rear of the site and shall be separated from the front dwelling unit by a minimum of 25 feet.
  - 2. The second dwelling unit shall be served by a driveway at least ten feet in width, leading from a public street adjacent to the lot.
  - 3. Both structures shall meet all other setback requirements of the zoning district.
  
- B. Multi-Family and Group Residential in CBD District: Multi-family and group residential uses are permitted in the CB district only on levels above street level except that a unit specifically designed for occupancy by disabled residents may be developed at street level, subject to approval of a special permit by the City Council with the recommendation of the Planning Commission.
  
- C. Mobile Home Residential in the MH District: Mobile home parks and mobile home residential use are permitted in the MH district. Such use may be configured in a mobile home park or mobile home subdivision. Following the effective date of this ordinance, no mobile home shall be located outside of a mobile home park or mobile home subdivision. A mobile home park is subject to compliance with the following regulations:
  - 1. Certification:
    - a. A certification of compliance with all ordinances and regulations regarding mobile home licensing, zoning, health, plumbing, electrical, building, fire protection, and any other applicable requirements shall be required of all mobile home parks.
    - b. The Building Official is authorized to perform an annual inspection of any mobile home park to ensure compliance with these regulations.
    - c. These regulations do not address the structural integrity of any units within a mobile home park. Compliance with these regulations does not represent city warrant of the structural integrity of any structure or unit in such a facility.
    - d. Permitted Uses: Permitted uses in the MH district are set forth in Table 4-1.
  
  - 2. Permitted Accessory Uses: The following uses of land, buildings, and structures shall be permitted within this district provided they are recognized as accessory to the performance of use permitted in Table 4-1.
    - a. Open or enclosed swimming pools.
    - b. Recreation or community use.
    - c. Other accessory structures permitted in residential zoning districts.
  
  - 3. Special Use Exceptions: Business offices shall be permitted in this district if management of the mobile home park is the primary function of the office. Other uses may be permitted in accordance with an approved plan.
  
  - 4. Special Use Permit: A special use permit may be granted by the City Council upon receipt of a recommendation from the Planning Commission for placement of mobile homes within this district based upon appearance, wiring which meets the National Electrical Code as of the date of manufacture, unit must be structurally stable, and meet the minimum accepted living conditions and further shall be attached to the appropriate utilities such as gas, electricity, water and sewer.

## SUPPLEMENTAL USE REGULATIONS

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5. Minimum and Maximum Site Area: A mobile home park shall be considered to be one zoned lot. The minimum area for a mobile home planned park shall be two acres.
6. Minimum Yard Requirements: Yards of 20 feet shall be maintained between each separate structure in this district. All other yards shall be maintained as stated in the approved plan.
7. Permissible Floor Area to Lot Area Ratio: The maximum permissible ratio of total building floor area to the lot area in this district is 20 percent except that when open spaces contiguous to a lot or lots in mobile home developments is dedicated to remain an open space, the dedicated open space may be computed together with the lot areas to meet the required ratio for open space.
8. Additional Standards:
  - a. Recreation Areas: Not less than 8 percent of the gross area of every mobile home park shall be developed as recreation areas easily accessible to all park residents. Recreation areas may include, but are not limited to, such facilities as recreation buildings, adult recreation areas, child play areas, and swimming pools.
  - b. Off-Street Loading and Parking. In addition to the provisions of Article 09, the following shall apply:
    - (1) Off-street parking and storage shall be provided for sorting of park occupants' boats, boat trailers, pickup coaches, truck tractors, trucks over three-fourths ton pickup size, and items of a similar nature, if permitted in the park, in addition to and separated from the parking required elsewhere in this chapter. Such areas shall be located so as not to be visible from adjoining streets and screened. Temporary mobile home storage may be permitted prior to permanent placement on the mobile home stand but shall not exceed seven days.
  - c. Streets: Streets shall be provided as follows:
    - (1) Entrance streets shall be not less than 35 feet wide. Interior streets shall be not less than 25 feet wide.
    - (2) Every dead-end street shall be provided with a cul-de-sac with not less than an 80-foot turning diameter.
    - (3) All streets shall be constructed with a curb to provide for drainage.
    - (4) The location and design of all intersections of access streets with public streets shall be approved by the public works department.
  - d. Walks: Walks shall be provided as follows:
    - (1) Common sidewalks shall be provided along all entrance streets and in areas of high pedestrian traffic such as in the vicinity of community buildings and recreation facilities. The sidewalks shall be at least four feet wide and of asphaltic or Portland cement binder pavement.
    - (2) Individual walks shall be provided to connect all mobile home stands to common sidewalks, to paved streets, or the paved driveways or parking spaces connected to a paved street. Such individual walks shall be at least two feet wide and of asphaltic or Portland cement binder pavement.
  - e. Lighting: The park street system shall be furnished with lighting units so placed and equipped to provide the following average minimum maintained levels of illumination:
    - (1) Upon all parts of the park street system, 0.2 foot-candle.
    - (2) Upon potentially hazardous locations including major street intersections and park entrances, 0.4 foot-candle.
  - f. Solid Waste Receptacles: Refuse collection stands consisting of a holder or rack elevated at least 12 inches aboveground or on an impervious slab at ground level shall be provided for all solid waste receptacles.
  - g. Height Limitation: The maximum height of any structure from ground level at the street side shall not exceed 35 feet.
  - h. Storm Shelter: A storm shelter house shall be provided. There shall be a minimum of 10 square feet of storm shelter floor area for each mobile home space.

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9. Special Provisions: Any person requesting change of a zone to an MH district for the purpose of developing a mobile home planned park shall submit a proper request for change in zone together with the following documents:
    - a. Plan of the proposed planned park showing all utility, street, and facility improvements, dimensions of all lots and building sites, proposed size of each lot or site, and location with relation to existing abutting streets and facilities.
    - b. Proposed constitution, articles of incorporation and/or bylaws of an association of homeowners or renters within the proposed planned park which documents will, at a minimum, deal with pet control and garbage and trash control.
    - c. Detailed drawings of proposed moorings and tie-downs and utility hookups of mobile homes where applicable.
    - d. Drawings and plans for individual storage buildings, office and community facilities proposed for any planned park area for mobile homes.
  10. Final zoning changes will not be granted until preliminary plans are approved and all submitted documents are again submitted in final reproducible form. Approval of the submitted final documents will be passed by ordinance and such approved documents will become a permanent record and part of the zoning regulations for this district. Any deviation from the submitted and approved final documents without due amendment by the City Council shall be a violation of these regulations.
- D. Retirement Residence:
1. Maximum floor area ratio is 0.5 for buildings up to and including three stories. The number of living units and occupants is determined by floor area ratio rather than site area per unit regulators. For example, the maximum gross floor area of a retirement residence on a 100,000 square foot site is 50,000 square feet.
  2. Any action that would result in occupancy of the project by persons less than retirement age requires approval of a Special Use Permit by the City Council following a recommendation by the Planning Commission.

### **6-4 Supplemental Use Regulations: Civic Uses**

- A. Clubs: Clubs located adjacent to residential uses shall maintain a bufferyard of not less than 15 feet along the common boundary with such residential use.
- B. Daycare: Daycare facilities are permitted by special use permit in the G1 zoning district only if incidental to a permitted primary use.
- C. Daycare Centers (General):
  1. Each daycare center (general) must be validly licensed by either the State of Nebraska or the appropriate governmental agency.
  2. Each facility shall provide a minimum of 50 square feet of outdoor play area per child, fully enclosed by fence or wall that is at least 42 inches but not more than 72 inches in height. Play areas shall be easily accessible from the main facility and be free of hazards, including potential traffic hazards.
  3. Special use permit applications for general daycare centers shall specify the number and projected ages of children to be cared for at the facility, and the number of projected full- and part-time staff.

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- D. Group Care Facilities and Group Homes:
1. Each group care facility or group home must be validly licensed by either the State of Nebraska or the appropriate governmental subdivision.
  2. Group homes are permitted in the CB district only on levels above street level except that a facility specifically designed for occupancy by disabled residents may be developed at street level, subject to approval of a special permit by the City Council with the recommendation of the Planning Commission.

### **6-5 Supplemental Use Regulations: Commercial Uses**

- A. Auto Repair, Equipment Repair, Body Repair and Travel Center, Truck Stop, RV Storage, and Repair:
1. Where permitted in commercial districts, all repair activities must take place within a completely enclosed building. Outdoor storage is permitted only where incidental to auto repair and body repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-way. Screening is subject to provisions of Article 08.
  2. Any spray painting must take place within structures designed for that purpose and approved by the building official.
  3. All entrances and exits serving a gasoline or diesel service station, convenience store offering fuel sales, or automobile repair shop shall be at least 150 feet from a school, public park, religious assembly use, hospital, or residential use, as measured along any public street. Such access shall be at least 40 feet away from the right-of-way line of any intersection.
  4. All fuel pumps shall be set back at least 15 feet from any street line.
- B. Auto Washing Facilities:
1. Each conveyor operated auto washing facility shall provide 100 feet of stacking capacity per washing lane on the approach side of the washing structure and stacking space for two vehicles on the exit side.
  2. Each self-service auto washing facility shall provide stacking space for three automobiles per bay on the approach side and one space per bay on the exit side of the building.
- C. Automobile, RV, and Equipment Rental and Sales:
1. All outdoor display areas for rental and sales facilities shall be hard-surfaced.
  2. Body repair services are permitted as an accessory use to automobile rental and sales facilities, provided that such repair services shall not exceed 25 percent of the gross floor area of the building.
- D. Bed and Breakfasts: Bed and breakfasts permitted in the CB district must provide any sleeping facility only on levels above street level except that units specifically designed and reserved for occupancy by handicapped people may be located on the street level.
- E. Campgrounds:
1. Minimum Size: Each campground established after the effective date of this title shall have a minimum size of one acre.

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2.       Setbacks: All campgrounds shall maintain a 50-foot front yard setback and a 25-foot bufferyard from all other property lines.
  3.       Each campground must maintain water supply, sewage disposal, and water and toilet facilities in compliance with all city ordinances, or, alternatively, be limited to use by self-contained campers, providing their own on-board water and disposal systems.
- F.       Convenience Storage: When permitted in the AG, RR, and GC districts, convenience storage facilities shall be subject to the following additional requirements:
1.       The minimum size of a convenience storage facility shall be two acres.
  2.       Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
  3.       All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.
  4.       All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
  5.       No storage buildings may open into required front yards.
  6.       Facilities must maintain landscaped bufferyards of 35 feet adjacent to any public right-of-way and 20 feet adjacent to other property lines, unless greater setbacks are required by Article 08.
- G.       Construction Sales and Service: Retail home improvement stores and centers may include outdoor storage of materials and must comply with the following conditions:
1.       Architectural design and materials shall be consistent with the current or projected character of the surrounding area.
  2.       All outside storage or display of merchandise or other materials or equipment shall be screened from view at eye level from a public street or adjacent property.
  3.       All storage buildings with overhead doors, drive openings, or open bays and all loading areas shall be fully screened from view at eye level from a public street or adjacent property.
  4.       Minimum screening shall be consistent with screening standards set forth in Article Eight.
  5.       All areas not occupied by buildings or landscaping shall be paved with concrete or asphalt, or surfaced with gravel or similar treatment to reduce dust.
- H.       Kennels:
1.       The minimum lot size shall be two acres.
  2.       No building or dog runs shall be located nearer than 100 feet from any property line and 500 feet to the property line of any residential use or district.
  3.       All kennel facilities shall be screened around such facilities or at property lines to prevent distracting or exciting animals. Screening shall be of a type provided by Article 08, establishing landscape and screening standards.
- I.       Recreational Vehicle Campgrounds: Recreational Vehicle Campgrounds are permitted in a General Commercial District by Special Use Permit. To ensure compliance with the purpose and

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intent of this use type, Recreational Vehicle Campgrounds are subject to the following regulations:  
**(Amended by Ordinance No. 1920 4/6/2017)**

1. Submission and approval of a Site Plan in accordance with the Plattsmouth Municipal Code, Chapter 11, Article 12, Section 12-3 and, upon approval, be recorded as a restrictive covenant on the property. In addition to the requirements of Section 12-3, the Site Plan must document compliance with all applicable statutes, rules, regulations, and ordinances and illustrate the proposed layout for the Recreational Vehicle Campground including all utility, street and facility improvements; dimensions of all Recreational Vehicle lots, recreational vehicle spaces, and commercial accessory sites; compliant separation distances between all recreational vehicle pads; the location of the site with relation to existing abutting streets, facilities and landscape buffer improvements; the designation of common areas for use by authorized users of the Recreational Vehicle Campground; and compliance with all site requirements set forth below or otherwise applicable to the site.
2. Submission to the Zoning Enforcement Officer of certifications of compliance with all statutes, ordinances and regulations regarding zoning, health, plumbing, electrical, building, fire protection, floodplain/floodway, landscape and screening, and other applicable regulations.
3. The Recreational Vehicle Campground shall comply with the following site requirements:
  - a. A minimum site area of twenty acres;
  - b. Compliance with landscaping and screening requirements as set forth in Chapter 11, Article 8;
  - c. Each Site Plan must identify Recreational Vehicle lots (available for sale) and Recreational Vehicle spaces (available for lease) which are parcels of ground intended to accommodate recreational vehicles on a temporary living basis. If the site shall contain saleable lots, the Recreational Vehicle Campground must separately comply with the Subdivision Ordinance found at Chapter 10 of the Plattsmouth Municipal Code;
  - d. Each Recreational Vehicle lot and space shall contain a stabilized parking pad of concrete or asphalt except when in the opinion of the approving authority that surface is not feasible;
  - e. All Recreational Vehicle pads and the Recreational Vehicles placed thereon must have a minimum separation distance of 15 feet;
  - f. All Recreational Vehicle lots and Recreational Vehicle spaces shall have a minimum size of 1,500 square feet;
  - g. All Recreational Vehicle Campgrounds shall provide a minimum of 15 Recreational Vehicle lots and/or spaces;
  - h. All Recreation Vehicle lots and/or spaces shall have a minimum width of 20 feet;
  - i. All Recreational Vehicle lots and spaces shall abut a drive or collector travelway and have direct access thereto;
  - j. All Recreational Vehicle Campgrounds shall include a location for dumpsters for refuse disposal with proper storm water drainage located at least 50 feet from any external travelway, screened by a solid landscaped fence, and maintained in accordance with Nebraska State health standards and Municipal Code;
  - k. All Recreational Vehicle Campgrounds and each Recreational Vehicle lot and space must be maintained so as to provide adequate storm water drainage as required by law;
  - l. All travelways within the Recreational Vehicle Campground shall be concrete or asphalt except when in the opinion of the approving authority that surface is not feasible and shall meet the following minimum stabilized travelway width standards:
    - i. One-way travelway shall be 15 feet; and
    - ii. Two-way travelway shall be 20 feet.
  - m. Turnarounds shall be provided for all dead-end travelways over 100 feet in length with a minimum radius of 30 feet;
  - n. Management headquarters, toilets, dumping stations, showers, benches, grills, and other uses customarily incidental to operation of a Recreational Vehicle Campground along



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- J. Restricted (Adult Entertainment) Businesses: Adult entertainment businesses shall be subject to the following restrictions, and no person shall cause or permit the establishment of any adult entertainment business contrary to said restrictions:
1. No adult entertainment business shall be open for business between the hours of 12:00 midnight and 6:00 a.m.
  2. A new adult entertainment business shall not be allowed within 1,000 feet of an existing adult entertainment business.
  3. A new adult entertainment business shall not be located within 500 feet of any residentially zoned district or 1,000 feet of a preexisting school, public park, or place of worship.
  4. The provisions of this chapter shall apply to any adult entertainment businesses in existence at the time the ordinance codified in this chapter takes effect. All nonconformances shall come into compliance on or before, and no such nonconforming use shall be permitted to expand in size or scope and the rights granted in this chapter shall terminate upon cessation of business, sale, or transfer of ownership of the adult entertainment business.
  5. Measurement of Distances: For the purpose of this chapter, measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult entertainment business to the point on the property line of such other business, school, church, public park, or areas zoned for residential use which is closest to the said main entrance of such adult entertainment business.
  6. No adult entertainment business shall be conducted in any manner that permits the observation of models or any material depicting, describing, or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult entertainment business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the premises which is prohibited by this code or any laws of the state or the United States.
  7. No part of the interior of the adult entertainment business shall be visible from any pedestrian sidewalk, walkway, street, or other public or semi-public area.
  8. An adult entertainment business shall post a sign at the entrance of the premises, which shall state the nature of the business and shall state that no one under the age of 18 years is allowed on the premises. The sign shall comply with the city's sign regulations. This section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
  9. Nuisance Operation: Any adult entertainment business operated, conducted, or maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance, and the City Attorney may, in addition to or in lieu of prosecuting a criminal action under this chapter, commence an action or actions, proceeding or proceedings, for the abatement, removal or enjoinder thereof, in the manner prescribed by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishment and restrain and enjoin any person from operating, conducting, or maintaining an adult entertainment business contrary to the provisions of this chapter.

**6-6 Supplemental Use Regulations: Industrial Uses**

- A. Resource Extraction: Resource extraction, where permitted, is subject to the following additional requirements:
  - 1. Erosion Control: A resource extraction use may not increase the amount of storm run-off onto adjacent properties. Erosion control facilities, including retention and sediment basins, are required of each facility if necessary to meet this standard.
  - 2. Surface Drainage: The surface of the use may not result in the collection or ponding of water, unless specifically permitted by the City Council.
  - 3. Storage of Topsoil: Topsoil shall be collected and stored for redistribution following the end of the operation.
  - 4. Elimination of Hazards: Excavation shall not result in a hazard to any person or property. The following measures are required:
    - a. Restoration of slopes to a gradient not exceeding 33 percent as soon as possible.
    - b. Installation of perimeter safety screening.
    - c. Installation of visual screening adjacent to any property within a residential or public use district.
  - 5. Restoration of Landscape: The topography and soil of the resource extraction site shall be restored and stabilized within nine months of completion of the operation. The site shall be seeded, planted, and contoured in a way that prevents erosion. Alternatively, the site may be used as a lake or body of water, subject to approval by the City Council with the recommendation of the City Council and the Lower Platte South Resources District.
- B. Salvage Services:
  - 1. Screening:
    - a. The perimeter of each new facility shall be fully enclosed by opaque, freestanding fencing or screen walls. Minimum height of this enclosure shall be ten feet. Any such enclosure shall be constructed behind required landscaped bufferyards.
    - b. Each existing salvage services facility shall be screened as provided above within one year of the effective date of this ordinance.
  - 2. Storage of materials within any salvage services facility may not be higher than the height of the surrounding screen fence or wall.
  - 3. No salvage services use may be established within 300 feet of the nearest property line of a residential or public use zoning district.

**6-7 Supplemental Use Regulations: Miscellaneous Uses**

- A. Landfills:
  - 1. Compliance with Codes: Each landfill must comply with all relevant city, county, state, or federal codes and statutes.
  - 2. Prevention of Hazards: No facility shall present a hazard to surrounding residents or properties.

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3. Drainage and Water Supply: No landfill may modify or prevent the flow of major natural drainage ways within the jurisdiction of the City of Plattsmouth. Landfills shall not produce a measurable increase in pollution in any public water-based recreational facility or in any waterway or well that is a part of a public or private water supply.
  4. Minimum Separation from Residential Uses: No non-putrescible landfill may be established within 300 feet of a developed residential or public use. No landfill involving the disposal of putrescible or septic wastes shall be established within one-fourth mile of any residential, public, or commercial zoning district; or any state or federal highway.
  5. Restoration of Site: The site of any landfill must be restored, stabilized, planted, and seeded within six months after the end of the operation. Dissipation of waste products must be accomplished in a manner approved by the State of Nebraska's Department of Environmental Control.
  6. Toxic Waste: The disposal of hazardous, toxic, or radioactive wastes as defined by the Federal Environmental Protection Agency shall be prohibited within the City of Plattsmouth and its extra-territorial jurisdiction.
- B. Communication Towers:
1. In any AG, RR, UC, or GC districts, communications towers are subject to approval by the Planning Commission after public hearing as a special permit use. Notice of the hearing shall be provided to all owners of record of property within 300 feet of the subject property. The Commission shall consider each of the following requirements and criteria in making its determination:
    - a. A communications tower which does not comply with the height limitations in the district bulk regulations shall be located on a lot of at least ten acres, and no reduction in the lot size shall be permitted which would result in the lot being less than ten acres unless such reduction is authorized by the Planning Commission.
    - b. A tower shall be set back from the property line of any adjoining residentially zoned property a distance of 180 feet, unless the tower is otherwise adequately screened from adjoining residential uses.
    - c. A tower and any antenna thereon shall be painted sky blue or an alternate color compatible with the surrounding area.
    - d. Except for the minimum lighting, if any, necessary to comply with the airport height and hazard zoning regulations and any applicable federal regulations, no lights may be mounted on a tower or antenna, and the tower and antenna shall not be illuminated.
    - e. The height of a tower, inclusive of any antenna thereon, shall not exceed 180 feet.
    - f. For towers less than 180 feet in height, the applicant shall provide a certification by a professional engineer licensed in this state that said tower is designed and constructed to permit extension to a height of 180 feet or the maximum allowed by airport zoning regulations and to accommodate additional antenna systems.
    - g. Any service building or equipment located at grade shall be adequately screened from adjoining residential uses.
    - h. The applicant shall present a signed lease agreement, a recorded declaration of covenants, or other satisfactory evidence showing that the owner/operator of a tower is obligated to promptly remove the tower at the end of the lease term or when the antenna thereon is no longer used, and that the site will be sodded unless otherwise approved by the Zoning Official for compatibility with the surrounding area.
    - i. Any tower shall be of a monopole design without guy wires, or of an ornamental design compatible with the surrounding area.
    - j. The adverse visual impact of a tower shall be minimized through careful design, siting, landscape screening and innovative camouflaging techniques.

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- k. The applicant shall demonstrate to the satisfaction of the Commission that the need for the tower cannot be served by an antenna on any existing structure.
2. In a UC or GC district, communications towers and antennas shall be permitted subject to approval by the Planning Commission after public hearing. Notice of the hearing shall be provided to all owners of record of property within 300 feet of the subject property. In its determination, the Planning Commission shall consider all of the following:
    - a. Any service building or equipment located at grade shall be screened from adjoining residential uses.
    - b. Any tower shall be adequately set back and screened from adjoining residential uses. In no event shall the tower be setback less than 90 feet from an adjoining residential district.
    - c. The adverse visual impact of a tower shall be minimized through careful design, siting, landscape screening, and innovative camouflaging techniques.
    - d. The applicant shall demonstrate to the satisfaction of the City Council that the need for the tower cannot be served by an antenna on any existing structure.
    - e. The applicant shall present a signed lease agreement, a recorded declaration of covenants, or other satisfactory evidence showing that the owner/operator of a tower is obligated to promptly remove the tower at the end of the lease term or when the antenna thereon is no longer used, and that the site will be sodded unless otherwise approved by the Zoning Official for compatibility with the surrounding area.
    - f. The height of a tower, except a tower accessory to a radio or television studio, shall not exceed 180 feet inclusive of any antenna.
    - g. For towers less than 180 feet in height, the applicant shall provide a certification by a professional engineer licensed in this state that said tower is designed and constructed to permit extension to a height of 180 feet or the maximum allowed by the airport zoning regulations and to accommodate additional antenna systems.
  3. In a GI or HI district, except for those accessory to a permitted use which comply with the bulk regulations, a communications tower or antenna shall comply with the following:
    - a. A tower shall be set back from the property line of any adjoining residentially zoned property a distance of 90 feet.
    - b. A tower and any antenna thereon shall be painted sky blue or an alternate color approved by the zoning official which minimizes the visibility of the tower.
    - c. Except for the minimum lighting, if any, necessary to comply with the airport height and hazard zoning regulations and any applicable federal regulations, no lights may be mounted on a tower or antenna, and the tower and antenna shall not be illuminated.
    - d. The height of a tower, except a tower for a radio or television studio, shall not exceed 180 feet inclusive of any antenna.
    - e. For towers less than 180 feet in height, the applicant shall provide a certification by a professional engineer licensed in this state that said tower is designed and constructed to permit extension to a height of 180 feet or the maximum allowed by the airport zoning regulations and to accommodate additional antenna systems.
    - f. The applicant shall provide a certification by a professional engineer licensed in this state that any tower is designed to permit a second antenna system of comparable size to be added to the tower above or immediately below the original antenna system.
    - g. Any service building or equipment located at grade shall be screened from adjoining residential uses. If such service building or equipment is to be enclosed by a fence other than a board fence, such fence shall be screened from the street and adjoining residential uses.
    - h. The applicant shall present a signed lease agreement, a recorded declaration of covenants, or other satisfactory evidence showing that the owner/operator of a tower is obligated to promptly remove the tower at the end of the lease term or when the

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antenna thereon is no longer used, and that the site will be sodded unless otherwise approved by the Zoning Official for compatibility with the surrounding area.

4. Non-Use/Abandonment: In the event the use of any tower or antenna has been discontinued for a period of 60 consecutive days, the tower or antenna shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the city which shall have the right to request documentation and/or affidavits from the tower or antenna owner/operator regarding the issue of tower or antenna usage. Upon such abandonment, the owner/operator of the tower or antenna or the owner of property upon which such facility is located shall have an additional 60 days within which to:
  - a. Reactivate the use of the tower or antenna or transfer the tower or antenna to another owner/operator who makes actual use of the tower or antenna; or
  - b. In the event that abandonment as defined in this regulation occurs due to relocation of an antenna at a lower point on the antenna support structure, reduction in the affected radiated power of the antenna or reduction in the number of transmissions from the antennas, the operator of the tower shall have six months from the date of effective abandonment to co-locate another service on the tower. If another service provider is not added to the tower, then the operator shall promptly dismantle and remove that portion of the tower which exceeds the minimum height required to function satisfactorily. Notwithstanding the foregoing, changes which are made to personal wireless facilities which do not diminish their essential role in providing a total system shall not constitute abandonment; however, in the event that there is a physical reduction in height of substantially all of the providers' towers in the county, then all of such providers' towers within the county shall similarly be reduced in height.
  - c. Dismantle and remove the tower or antenna. If such tower or antenna is not removed within said 60 days from the date of abandonment, the city may remove such tower or antenna, in accordance with applicable law, at the facility owner's and/or property owner's expense. If there are two or more users of a single tower or antenna, then this provision shall not become effective until all users cease using the tower or antenna.
  - d. At the earlier of 60 days from the date of abandonment without reactivation or upon completion of dismantling and removal, city approval for the tower or antenna shall automatically expire.

### C. Wind Energy Conservation Systems (WECS):

1. The distance from all lot lines or any building or power line to any tower support base of a WECS shall be equal to the sum of the tower height and the diameter of the rotor. A reduction of this requirement may be granted as part of a special use permit approval if the City Council, after recommendation by the Planning Commission, finds that the reduction is consistent with public health, safety, and welfare.
2. The distance between the tower support bases of any two WECS shall be the minimum of five rotor lengths, determined by the size of the largest rotor. A reduction of this requirement may be granted as part of a special use permit approval if the City Council, after recommendation by the Planning Commission, finds that the reduction does not impede the operation of either WECS.
3. Any tower or rotor shall maintain a distance of at least 100 horizontal feet from any structure, power line, or antenna located on another property.
4. The WECS operation shall not interfere with radio, television, computer, or other electronic operations on adjacent properties.
5. A fence eight feet high with a locking gate shall be placed around any WECS tower base, or the tower climbing apparatus shall begin no lower than 12 feet above ground.

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6. The height of the WECS may exceed the height restrictions of the base district by up to 50 percent. The bottom tip of any rotor must be at least 10 feet above any area accessible to pedestrians.

### **6-8** Supplemental Use Regulations: Accessory Uses

- A. Home Occupations: Home occupations are permitted as an accessory use in residential units subject to the following conditions:
  1. External Effects: No noise, odors, bright lights, storage, or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right-of-way.
  2. Employees: A home occupation may not employ individuals other than the residents of the dwelling unit.
  3. Service Traffic: Deliveries or service by commercial vehicles or trucks over ten tons licensed weight is prohibited.
  4. The home occupation shall be clearly incidental to or secondary to the residential use of the premises.
  5. There shall be no outside operation, storage, or display of materials or products.
  6. One sign advertising the business is allowed, attached to the residence. Such sign shall not exceed one square foot in total area. Freestanding signs are not permitted.
  7. Not more than one-half of the area of one floor level of the dwelling or accessory building shall be used for such business, including the storage of materials or products.
- B. Permitted Accessory Uses - Residential Uses: Residential uses may include the following accessory uses, activities, and structures on the same lot.
  1. Private garages and parking for the residential use.
  2. Recreational activities and uses by residents.
  3. Home occupations, subject to Section 6-8A of these regulations.
  4. Residential convenience services for multiple-family uses or mobile home parks.
  5. Garage sales, provided that the frequency of such sales at any one location shall not exceed one during a continuous two-month period or four sales during any 12-month period.
- C. Permitted Accessory Uses - Civic Use Types: Guidance services and health care use types are permitted in the GI and HI zoning districts only as accessory uses to a primary industrial use.
- D. Permitted Accessory Uses - Other Use Types: Other use types may include the following accessory uses, activities, and structures on the same lot:
  1. Parking for the principal use.
  2. Manufacturing or fabrication of products made for sale in a principal commercial use, provided that such manufacturing is totally contained within the structure housing the principal use.
  3. Services operated for the sole benefit of employees of the principal use.

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- E. Permitted Accessory Uses - Agricultural Use Types:
1. Garden centers and roadside stands, subject to the regulations set forth in Section 6-2B.
  2. Other uses and activities necessarily and customarily associated with the purpose and functions of agricultural uses.

### **6-9 Supplemental Use Regulations: Outdoor Storage**

Outdoor storage is prohibited in all zoning districts except the GI and HI zoning districts, except as provided in this section.

- A. Agricultural Use Types: Outdoor storage is permitted only where incidental to agricultural uses.
- B. Civic Use Types: Outdoor storage is permitted only where incidental to maintenance facilities.
- C. Commercial Use Types:
1. Outdoor storage is permitted only where incidental to agricultural sales and service; auto rentals and sales; construction sales; equipment sales and service; stables and kennels; and surplus sales.
  2. Outdoor storage is permitted where incidental to body repair, provided that such storage is completely screened at property lines by an opaque barrier, as set forth in Article 08. This provision shall apply to any body repair use established after the effective date of this ordinance.
- D. Industrial and Miscellaneous Use Types:
1. Light Industry within the CB district zoning district may not include outdoor storage.
  2. Outdoor storage is permitted where it is incidental to light industry outside of the CB district, general industry, heavy industry, resource extraction, salvage services, warehousing, and construction yards. Any such outdoor storage is subject to screening requirements set forth in Section 08.
  3. Outdoor storage is permitted where incidental to landfills.

### **6-10 Supplemental Use Regulations: Temporary Uses**

- A. Purpose: These provisions are intended to permit occasional, temporary uses and activities, when consistent with the objectives of the Zoning Ordinance and compatible with surrounding uses. They are further intended to prevent temporary uses from assuming the character of permanent uses.
- B. Temporary Use Types: The following temporary uses are permitted, subject to the regulations contained within these sections:
1. Model homes or apartments, if contained within the development to which they pertain.
  2. Development sales offices. Such offices may remain in place until 90 percent of the lots or units within the development are sold and may not be located within a mobile home or manufactured home/structure.
  3. Public assemblies, displays, and exhibits.

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4. Commercial circuses, carnivals, fairs, festivals, or other transient events, provided that events are located on property owned by the sponsoring non-profit organization, or are located within a CB or more-intensive zoning district.
  5. Outdoor art shows and exhibits.
  6. Christmas tree or other holiday-related merchandise sales lots, provided that such facilities are not located in a residential zoning district.
  7. Construction site offices, if located on the construction site itself.
  8. Outdoor special sales, provided that such sales operate no more than three days in the same week and five days in the same month, and are located in commercial or industrial zoning districts.
  9. Construction batch plants, provided that:
    - a. No plant may be located within 600 feet of a developed residential use, park, or school.
    - b. The facility is located no more than one mile from its job site. The Building Official may extend this distance to two miles, if such extension avoids use of local streets by plant-related vehicles.
    - c. Hours of operation do not exceed 12 hours per day.
    - d. The duration of the plant's operation does not exceed 180 days
  10. Additional temporary uses that the Building Official determines to be similar to the previously described uses in this section.
- C. Required Conditions of All Temporary Uses:
1. Each site shall be left free of debris, litter, or other evidence of the use upon its completion or removal.
  2. The Building Official may establish other conditions which he/she deems necessary to ensure compatibility with surrounding land uses.
- D. Permit Application and Issuance:
1. An application to conduct a temporary use shall be made to the Building Official and shall include at a minimum a description of the proposed use, a diagram of its location, information regarding hours and duration of operation, and other information necessary to evaluate the application.
  2. The Building Official may authorize a temporary use only if he/she determines that:
    - a. The use will not impair the normal operation of a present or future permanent use on the site.
    - b. The use will be compatible with surrounding uses and will not adversely affect the public health, safety, and welfare.
  3. The duration of the permit shall be explicitly stated on the permit.
  4. Decisions of the Building Official may be appealed to the Board of Adjustment.

**6-11 Supplemental Use Regulations: Shipping Containers (Ord No. 2016 6/3/2024)**

- A. Subject to the requirements of this Section 6-11 and other provisions of this ordinance, two(2) shipping containers are authorized for permanent use in the RR and AG zoning districts. GI and HI districts are exempt from all provisions of article 6-11
  
- B. It shall be unlawful to place, use, allow, or maintain a shipping container on any lot, parcel, or site or part thereof within the zoning jurisdiction of the City of Plattsburgh without the issuance of a permit by the Building Official. Applications for permits are available from the Building Official. A completed application and the application fee set forth in the City's Fee Ordinance shall be submitted to the Building Official. The application shall include a site plan showing accurate lot lines and setbacks; locations of other buildings; the purpose and proposed use of the shipping container; the proposed location of the shipping container; and the proposed length of time the shipping container will be located on the lot, parcel, or site. The Building Official may require supplemental information or inspection prior to the approval of any permit.
  
- C. Shipping containers are not authorized for use in the R1, R2, R3, CBD, UC, LC, BP, and MH zoning district except as expressly permitted in this Section 6-11(C)
  - 1. Upon the issuance of a permit by the Building Official, one (PODS OR similar) temporary shipping container may be permitted on a lot, parcel, or site within the Plattsburgh zoning jurisdiction for a period not to exceed 30 days for the limited purpose of loading and unloading household contents and related items. The shipping container shall be located at the rear of the lot, parcel, or site where and when possible.
  
  - 2. Upon the issuance of a permit by the Building Official, temporary shipping containers may be permitted on a lot, parcel, or site solely for use by a contractor for the temporary location of an office or for the storage of equipment or materials during construction which is taking place on the lot, parcel, or site where the shipping containers are to be located. The number of containers allowed will be determined by the building official. The permit shall be issued for an initial period not to exceed 180 days and may be renewed, upon application, for projects which extend beyond 180 days if construction is proceeding in a timely fashion and that the use of the shipping container is otherwise in compliance with this Section 6-11. All shipping containers shall be removed within 14 days after completion of construction. All shipping containers shall be located at the rear of the lot, parcel, or site where and when possible.
  
- D. Unless specifically waived by the permit, each shipping container for which a permit is issued by the City Building Official shall conform to the requirements of this Section 6-11(D).
  - 1. The shipping container shall be placed so that it rests entirely on a hard surface (asphalt, gravel, or concrete).
  
  - 2. The shipping container shall comply with applicable setbacks for permanent structures (except for temporary shipping containers authorized in Section 6-11(C)(1) and (2)) and shall not be placed in a manner that it encroaches on any sidewalk or street or impedes access or line of sight to public rights-of-way, public or utility drainage, easements, or adjacent structures and buildings.
  
  - 3. The shipping container shall not be used for any purpose not authorized in the zoning district in which the lot, parcel, or site is located; shall not be used for human or animal habitation; shall not be used for: convenience storage (use type); shall be subject to any regulations applicable to accessory buildings and accessory structures in the zoning district in which the shipping container is proposed to be located; and shall be used only for accessory uses.
  
  - 4. Except for a temporary shipping container authorized in Section 6-11(C)(1) and (2), the shipping container shall not have any signage or lettering on it and shall be painted a non-reflective neutral color that is compatible with the primary structure located on the lot, parcel, or site where the shipping container is proposed to be located.

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5. The shipping container may not be stacked on another shipping container or stacked or joined to any other structure, unless specifically engineered as a structure and comply with all applicable building codes.
  6. The shipping container shall be structurally sound, operated in a safe manner, and maintained in good repair and shall be free of holes, peeling paint, rust, damage, and structural modifications.
  7. Except for a temporary shipping container authorized in Section 6-11(C)(1) or (2), the shipping container shall be screened so that it is not visible from the portion of any public or private street that abuts the lot, parcel, or site where the shipping container is proposed to be located by such screening (e.g., landscaping, fencing, terrain, existing structures, or a combination thereof) as may be required and approved by the Building Official.
  8. Except for a temporary shipping container authorized in Section 6-11(C)(1) or (2), shipping containers are prohibited in the CCD and HD overlay districts.
- E Nothing in this Section of 6-11 shall prohibit the use of shipping containers as a building component in the construction of a building or other structure; provided, such use of the shipping containers shall comply with all other applicable provisions of this ordinance and building codes.

07

ARTICLE SEVEN  
SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

7-1 Purpose

The supplemental site development regulations recognize the existence of special conditions that cannot comply literally with the site development regulations set out for each zoning district. Therefore, these regulations qualify or modify the district regulations of this title and provide for specific areas of exception.

7-2 Setback Adjustments

- A. Lots Adjoining Alleys: In calculating the depth of a required side or rear yard setback for a lot adjoining a dedicated public alley, one-half of the alley may be credited as a portion of the yard. However, no residential structure may be nearer than three feet to the near side of the alley.
- B. Exceptions to Openness of Required Yards: Every part of a required yard shall be open and unobstructed from finished grade upward, except as specified herein.
  - 1. Window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project two feet into a required yard.
  - 2. Terraces, patios, uncovered decks, and ornamental features which have no structural element more than two feet above or below the adjacent ground level may project ten feet into a required yard. However, all such projections must be set back at least three feet from an adjacent side lot line; or 20 feet from any street property line.
  - 3. Fire escapes, fireproof outside stairways, and balconies opening to fire towers may project a maximum of 3-1/2 feet into required yards, provided that they do not obstruct the light and ventilation of adjacent buildings.
  - 4. For buildings constructed upon a front property line, a cornice may project into public right-of-way. Maximum projection is the smaller of four feet or 5 percent of the right-of-way width.
  - 5. In commercial districts, a canopy may extend into a required front yard, provided that the canopy is set back at least five feet from the front property line, covers less than 15 percent of the area of the required front yard, and has a vertical clearance of at least eight feet six inches.
  - 6. Accessory Buildings:
    - a. Accessory buildings in residential districts, including private garages, may be located a minimum of five feet from the side or rear lot line if set back 60 feet or more from the front lot line. Any such accessory building must be located at least six feet from the main structure.
    - b. Accessory structures on a lot under one acre in size devoted to single- or two-family use, which are not attached to the principal building, shall in the aggregate occupy no more than 30 percent of the rear yard, and shall in the aggregate be no larger than 1,000 square feet in area. However, this subsection shall not be interpreted to prohibit the construction of an accessory structure having an aggregate area of not more than 576 square feet on a minimum rear yard.
    - c. Except for accessory portable classrooms supporting an existing primary or secondary educational facility, accessory buildings shall utilize exterior materials and building design consistent with the character or the primary structure in the following zoning districts: R1, R2, R3, MH, CBD, and UC. **(Amended by Ord No. 1770 7/7/2008 & Ord No. 2006 8/21/2023)**
  - 7. Lamp posts with a maximum height of ten feet, and flag poles up to maximum height of base district may be located within required yards, provided they are set back at least five feet from property lines.

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

- C. **Setback Adjustments:** These provisions apply if 50 percent or more of the buildings on that blockface have front yard setbacks less than those required for the specific district.
1. If a building is to be built on a parcel of land within 100 feet of existing buildings on both sides, the minimum front yard shall be the mean setbacks of the adjacent buildings.
  2. If a building is to be built on a parcel of land within 100 feet of an existing building on one side only, the minimum front yard shall be the setback of the adjacent building.
  3. If a building is to be built on a parcel of land not within 100 feet of an existing building on either side, then the minimum front yard shall be the mean setback of all existing buildings on the blockface.
- D. **Rear Yard Exceptions - Residential Uses:** When an irregular lot is used for residential purposes, the rear yard may be measured as the average horizontal distance between the building and rear lot line, provided that the minimum setback shall not be less than 60 percent of the rear yard required by the zoning district.
- E. **Double Frontage Lots:** Residentially zoned double frontage lots on a major street, and with no access to that street, may have a 25-foot minimum front yard setback along said street. All other double frontage lots must provide full front yard setbacks from each adjacent street.
- F. **Parabolic Antennas:**
1. Parabolic antennas which are accessory to a primary use and are designed to receive radio or television signals from satellites shall not be located within any street yard of the primary use.
  2. Such antennas shall be located no less than fifteen feet from the property line of an adjacent property within a residential zoning district.

### **7-3 Height Exceptions**

These provisions allow exceptions to the height limit of any zoning district in certain situations.

- A. **Vertical Projections:** Chimneys, cooling towers, building mechanical equipment, elevator bulkheads, fire towers, grain elevators, non-parabolic receiving antennas, tanks, solariums, steeples, penthouses not exceeding 25 percent of total roof area, flag poles, stage towers or scenery lofts, and water towers may exceed the height limit of any district by not more than 25 percent.
- B. **Radio Towers:**
1. Radio towers, operated by licensed amateur radio operators, may exceed the height limit of any district by not more than 25 percent. This exception does not apply to parabolic antennas designed to receive signals from satellites.
  2. Such radio towers shall not be located within any street yard of the primary use, and shall be located no less than 110 percent of the tower's height from a property line of an adjacent property within any zoning district.
- C. **Wind Energy Conservation Systems (WECS):** Wind energy conservation systems are exempt from the height restrictions of the base district.
- D. **Special Permit Uses:** The City Council with the recommendation of the Planning Commission may grant an exception from the height limit for a zoning district for a special permit use, as part of its approval of that use. The limit or extent of this exception shall be a specific part of the special use permit.

- E. Federal Aviation Administration Rules: No structure may be built in any zoning district which exceeds the maximum height permitted under the rules of the Federal Aviation Administration. These rules describe the glide angles and operational patterns for any airport within the planning jurisdiction of the City of Plattsburgh.

**7-4 Exceptions to Site Development Regulations for Cluster and Conservation Subdivisions**

- A. Purpose: Section 4 of the Subdivision Chapter of the Land Development Ordinance provides for cluster and conservation subdivisions. Creative subdivisions allow for greater flexibility in the design and development of subdivisions, in order to produce innovative residential environments, provide for more efficient use of land, protect topographical features, and encourage the preservation of common area and open space. These special regulations and exceptions apply only to subdivisions.
- B. Area and Yards for Individual Lots:
  - 1. Individual lots within a creative subdivision are exempt from minimum lot area or yard setback requirements set forth elsewhere in this ordinance, unless provided for by the regulations for a specific zoning district. A creative subdivision must be planned and developed as a common development. A minimum separation of ten feet shall be established for all residential structures not attached to one another.
  - 2. Any private garage oriented to or facing a public street or private way internal to the creative subdivision must be set back a minimum of 25 feet from that public street or private way.
- C. Coverage and Landscaping Requirements: Individual lots in a creative subdivision are exempt from maximum building and impervious coverage limitations and street yard landscaping requirements established for the zoning district. However, the subdivision as a whole, including streets, walks, and access ways, must comply with the building and impervious coverage regulations for its zoning district.

**7-5 Fence Regulations**

- A. Location Restriction: Unless otherwise provided by this title or other sections of the Plattsburgh Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines.
- B. Required Openings: Unless otherwise provided by this title or other sections of the Plattsburgh Municipal Code, any fence built on residential property within required front or street side yards shall contain openings constituting no less than 50 percent of the surface area of the fence.
- C. Sight Obstruction: No solid fence permitted or required by this title or other sections of the Plattsburgh Municipal Code shall be built within a triangle formed by the adjacent side lines of two intersecting streets and a line connecting points 30 feet on each leg from their point of intersection.
- D. Facing: The finished surfaces of any fence shall face toward adjacent properties and street frontage.
- E. Residential Fences: Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions.
  - 1. Height: The maximum height of a fence within a required front yard or street side yard setback shall be four feet. The maximum height for any fence outside of a required front yard shall be six feet.
  - 2. Exception for Street Side Yards: On corner lots, a fence built along the street side yard in conformance with the required street yard setback may have a maximum height of six feet.
  - 3. Exception to Openness Requirement: Fences built on residential property outside of required front or street side yards may exceed 50 percent closed construction.

## SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

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4. Exception for Front Yards of Double Frontage Lots: A fence built within the required front yard of a double frontage lot may be a maximum of six feet in height and may exceed 50 percent closed construction if such lot fronts an arterial street or expressway, as defined in the Comprehensive Development Plan of the City of Plattsburgh; and if such frontage does not provide primary access to the property.
  5. Materials: Fences shall be constructed of wood, chain-link, PVC, resin/plastic, stone, or masonry materials only. Wood fences shall utilize standard building lumber only. Barbed wire and/or electrified fences are not permitted, and are defined as any fence that includes in its material barbs, blades, razors, electric current, or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence.
- F. Office, Commercial, and Industrial Fences: Fences constructed in commercial and industrial districts are subject to the following special provisions:
1. LC, UC, and CB Districts: The maximum height of a fence in the LC, UC, or CB districts may not exceed six feet.
  2. GC, GI, and HI Districts: The maximum height of a fence within a required front yard or street side yard setback shall be six feet. The maximum height for a fence outside of required front yard or street side yard setbacks shall be ten feet.

### **7-6 Appeals**

Denial, revocations, or cancellations of a building permit based on the provisions of this section may be appealed to the Board of Adjustment, as set forth in Article 12.

**08**

**ARTICLE EIGHTH  
LANDSCAPING AND SCREENING REGULATIONS**

**8-1 Purpose**

The landscaping and screening regulations provide additional guidance on the development of sites within Plattsmouth by addressing landscaping and screening requirements. They are designed to improve the appearance of the community, buffer potentially incompatible land uses from one another, and conserve the value of properties within the City of Plattsmouth.

**8-2 Applicability**

The provisions of this article shall apply to all new development on each lot or site upon application for a building permit, except for the following:

- A. Reconstruction or replacement of a lawfully existing use or structure following a casualty loss.
- B. Remodeling, rehabilitation, or improvements to existing uses or structures which do not substantially change the location of structures, parking, or other site improvements.
- C. Additions or enlargements of existing uses or structures which increase floor area or impervious coverage area by less than 20 percent. Where such additions or enlargements are 20 percent or greater, these provisions shall apply only to that portion where the new development occurs.

**8-3 Landscaping Plan Review Procedure**

- A. Administration and Enforcement:
  - 1. The Zoning Administrator shall administer and enforce this chapter. The City Council may direct other persons to assist him/her.
  - 2. If the Zoning Administrator or his/her designee shall find that any of the provisions of this chapter are being violated, he/she shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall take action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.
- B. Landscaping Plan Review Required:
  - 1. Landscaping plan review is required for all developments requesting actions regarding rezonings, building or other development permits, and minor and major subdivisions. The review will be performed by the Zoning Administrator or his/her designee. A landscaping plan is not required for individual single-family units.
  - 2. Landscaping plan review is initiated at the time of application for a plat or permit. Compliance with these landscape requirements must be complete prior to issuance of a certificate of zoning compliance or certificate of occupancy for the structure.
  - 3. No building or grading permit shall be issued by the Zoning Administrator or his/her designee except in conformity with the provisions of this chapter, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by this chapter.
- C. Submittal for Landscaping Plan Approval: Submittal shall include the following information:

## LANDSCAPING AND SCREENING REGULATIONS

1. Drawings at a scale no smaller than 1 inch = 50 feet. Drawings shall include north arrows, scale, street address, street names, and the name and address of the person or firm preparing the plan.
2. Calculations of the entire site area, the area required for landscaping by this ordinance, including street landscape borders, streetyards, public right-of-way, bufferyards, perimeter and interior parking lot landscaping, and the required quantities of trees, shrubs, groundcover, and other materials required within these landscaped areas.
3. Overall site plan, indicating location of major site features, structures, parking, site circulation, public streets and rights-of-way, pedestrian circulation, site amenities, and other features.
4. Existing plant materials, including location, size, species, and condition, and indication whether existing materials will remain or be removed.
5. Planting plan, including location of all materials, size, and scientific and common name of each material. The planting plan includes the location and type of all ground covers, including non- living materials, and all other landscape features and structures.
6. Location and design of all screening elements required by this ordinance.
7. Grading plan showing berms, landforms, and stormwater management facilities, with contours shown at no less than two-foot intervals.
8. A development obligation statement that establishes the responsibility of the developer to install landscaping and irrigation according to these regulations.

### **8-4 Landscaping Requirements**

Landscaping shall be required adjacent to each street property line and within street yards and street side yards as set forth below.

TABLE 8.1: REQUIRED LANDSCAPED AREA IN STREETYARDS		
Zoning District	Street Landscape Border	Minimum Percentage of Area of First 100 Feet of Streetyard to be Landscaped
AG	35 Feet	80% of Entire Street Yard
RR	35 Feet	75% of Entire Street Yard
R-1	20 Feet	65% of Entire Street Yard
R-2	15 Feet	55% of Entire Street Yard
R-3	15 Feet	50% of Entire Street Yard
MH	35 Feet	65% of Entire Street Yard
LC	15 Feet	25%
UC	5% of the Depth of the Streetyard; 50% of the Landscaped Area between Curb and Sidewalk may be Counted Toward this Requirement	25%
CB	No Requirement	20%
GC	10 Feet	20%
BP	20 Feet	15%
GI	10 Feet	10%
HI	No Requirement	0%

Note: Paving is not permitted within side yard setbacks of a lot, in conformance with this § 205-58.

**8-5 Landscaping Materials and Installation Standards**

- A. Official List of Recommended and Prohibited Plant Materials: Plantings shall be used in any required landscaped areas or bufferyards consistent with the City of Plattsmouth landscaping standards, provided through the Planning Department. All plant materials shall conform in size, species and spacing with this section of the ordinance.
- B. Use of Inorganic Landscaping Materials: No artificial trees, shrubs, plants, or turf shall be used to fulfill the minimum requirements for landscaping. Inorganic materials, such as stone or decorative pavers, may be used, provided that such material does not comprise more than 35 percent of the minimum required landscaped area. Other concrete and/or asphalt pavement surfaces may not be used within the minimum required landscaped area, except for walkways less than five feet in width.
- C. Supplements to the Recommended List of Plant Materials: The recommended list of plant materials has been compiled using the latest research data available. Plants other than those listed may be used to fulfill minimum landscaping requirements as approved by the Zoning Administrator. To be considered for approval, a proposed plant material must be submitted for review with the following information:
  - 1. Common name and scientific name of plant material.
  - 2. Habitat, geographic climate range and whether plant is native to this region.
  - 3. Growing characteristics, including evergreen or deciduous, height, and spread at maturity.
  - 4. Suitability for different landscape uses and applications.
  - 5. Susceptibility to disease and tolerance of environment: heat, drought, and pollution stress.
  - 6. Fruit-bearing characteristics which may be hazardous in pedestrian and parking area.
- D. Encouragement of Native Landscaping Materials: The use of suitable native plant materials is encouraged to fulfill landscaping requirements. Native plants, or those plants which occur naturally in this region, have shown greater adaptability to the seasonal and climate changes which occur in this region.
- E. Installation Standards:
  - 1. Basic plant materials standards shall include the following:
    - a. Evergreen Trees: Minimum height of six feet.
    - b. Shrubs: Minimum two-gallon size container, or the equivalent height and/or spread.
    - c. Ground Cover Shrubs: Minimum spacing upon installation of 18 inches on center.
    - d. Deciduous Shade Trees: Minimum caliper (diameter) of two inches as measured six inches above the ground.
    - e. Ornamental Deciduous Trees: Minimum caliper (diameter) of two inches as measured six inches above the ground.
  - 2. All other specifications shall conform to the American Standards for Nursery Stock, published by the American Association of Nurserymen for that type of tree or shrub at the time of installation.
  - 3. All plant material shall be installed free of disease and in a manner that ensures the availability of sufficient soil and water to sustain healthy growth.

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4. All plant material shall be planted with a minimum of six inches of organic soil and mulched to a depth of three inches.
- F. Minimum spacing of plant materials shall be as follows:
1. Tree Spacing along Streets: Minimum of one tree for every 50 linear feet of street landscape border.
  2. Spacing of Trees: Spacing consistent with generally accepted species spread dimension at maturity defined by American Standards for Nursery Stock, or a minimum of one tree for every 50 feet, whichever is less.
  3. Ground Cover Shrubs: Minimum spacing upon installation of 18 inches on center.
  4. Ground Cover Turf: Immediate and complete coverage of area within the season.
  5. Ground Cover, Creeping: Spacing adequate to provide complete coverage in three years.
- G. Supplemental Installation Requirements for Shrubs:
1. Shrubs shall be installed in a manner that promotes ease of maintenance and quality appearance.
  2. All shrubs shall be installed in designed beds or naturalized settings containing a minimum of three inches of organic or inorganic mulch, contained by some form of edging, with an underlayment of landscape fabric.
  3. Shrub installations beyond mere shrub beds, such as may contain ground covers, native perennials or seasonal annuals, may be approved without these features at the discretion of the Zoning Administrator, upon demonstration of quality design and a maintenance contract/commitment.

### **8-6 Maintenance Responsibility**

The owner of the property, his/her successors, heirs, assigns shall be responsible for the proper maintenance of all required landscaped areas. Landscaping shall be maintained continuously, including all necessary watering, weeding, pruning, pest control and replacement of dead or diseased plant material. Replacement of dead and diseased material shall be of the same type and size set forth on the approved landscaping plan. Replacement shall occur within the present planting season or may be deferred to the next planting season by the Zoning Administrator to accommodate unfavorable weather conditions. In no case shall replacement time exceed one year.

### **8-7 Performance Guaranties and Surety**

As a condition of issuance of a certificate of occupancy and/or certificate of zoning compliance, the City Council shall require and accept the following:

- A. A landscaping performance bond, letter of credit, cash escrow, or other guaranty filed with the Zoning Administrator in a form acceptable to the city, in an amount of 120 percent of the estimated cost of the landscape improvement or erosion control installation. Exemptions to this requirement include single- family dwellings and duplex units exclusively.
- B. The performance guaranty amount and requirement, along with the permitted time for installation, shall be included as a condition for final occupancy of the structure. The time period may be extended by the City Council, upon the recommendation by the Zoning Administrator.

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- C. If said improvement is not installed within one year of issuance of certificate of occupancy or commencement of operations, the developer or owner shall grant the City of Plattsburgh permission to enter upon the land to install required landscaping and/or screening, and the city shall retain said surety.
- D. Prior to the release of any surety, the developer/owner shall sign an agreement to maintain all required landscaped areas, bufferyards, and screening, as provided by the city.
- E. Failure to install necessary soil erosion control measures devices prior to site development activity may result in the Zoning Administrator's revoking the grading permit to stop site work.

**8-8 Bufferyard Provisions**

These provisions apply when a use is established in a more-intensive zoning district (District A) which is adjacent to a less-intensive zoning district (District B). The owner, developer, or operator of the use within District A shall install and maintain a landscaped bufferyard on his/her lot or site, as set forth in this section. Bufferyard requirements apply only to those districts indicated in Table 8.2.

- A. The bufferyard dimensions set forth in this section apply to zoning districts which share a common lot line or are adjacent but separated by an intervening alley.
- B. When a street separates adjacent zoning districts requiring a bufferyard, the size of the bufferyard shall be one-half the required bufferyard set forth in this section.
- C. Each required bufferyard must be entirely landscaped and free of paved areas, accessways, storage, or other disturbances.

TABLE 8.2: BUFFERYARD REQUIREMENTS (FEET)							
		District B: Less Intensive Adjacent District					
		AG*	RE*	R-1	R-2	R-3	MH
More Intensive District	LC	10	10	10	10	10	10
	GC	30	30	20	20	20	20
	BP	30	30	20	20	20	20
	GI	30	40	40	40	40	40
	HI	60	60	60	60	60	60

**Note 1:** Buffer requirements do not apply to single-family or duplex residential uses established in District A.

**Note 2:** Buffer requirements adjacent to AG and RE districts apply only when the AG and RE districts have residential uses established either by use or approved subdivision, or are designated for residential uses by the city's comprehensive plan.

**Note 3:** When an alley separates adjacent zoning districts requiring a bufferyard, the size of the bufferyard shall be one-half the required bufferyard set forth in the table above.

**Note 4:** Each required bufferyard must be entirely landscaped in accord with the provisions of Section 8-5, and otherwise free of paved areas, access ways, storage, or other disturbances.

**8-9 Screening Standards**

- A. Application: Screening is required between adjacent zoning districts indicated in the bufferyard requirements when one or more of the following conditions in the more intensive zoning district is directly visible from and faces either the boundary of the less intensive zoning district or a public right-of-way:
  1. Outdoor storage areas or storage tanks, unless otherwise screened.
  2. Loading docks, refuse or trash collection points or dumpsters, and other service areas.

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3. Major machinery or areas housing a manufacturing process.
  4. Major on-site traffic circulation areas or truck and/or trailer parking.
  5. Sources of glare, noise, or other environmental effects.
  6. Bailing or stockpiling of cardboard or other shipping or packaging materials.
- B. Screen Design. A screen of at least six feet in height, including walls, fences, berming, or landscaping shall be provided that prevents direct visibility of the conditions listed in this section from less intensive uses or public streets. The screen may include the following:
1. A wood, brick, stone, concrete masonry, PVC, stucco, or concrete fence or wall at least six feet in height, with a minimum opacity of 75 percent.
  2. A vegetative screen, using evergreen or deciduous materials, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six feet within four years of planting.
  3. An alternative vegetative screen that provides two overstory deciduous trees and four evergreen trees per 100 linear feet of property line.
  4. A landscaped earth berm with a maximum slope of three to one, which, if used alone, rises to no less than six feet above the existing grade of the lot line separating the zoning districts.
  5. Any combination of these methods that achieves a cumulative height of six feet.
- C. Screening shall not adversely affect surface water drainage.
- D. The finished side of any fence or wall providing screening shall always be oriented toward the public street or adjacent property.
- E. Screening may be interrupted to provide access drives to service areas or for loading purposes to buildings. Such breaks or interruptions shall not exceed 20 percent of the length of the required screened area.

### **8-10** Parking Facility Landscaping

Unless otherwise noted, each parking facility shall comply with the following regulations:

- A. Each parking lot shall provide a minimum landscaped buffer of ten feet along any street property line.
- B. Each parking structure shall be considered a structure and subject to the setback and landscaping requirements for its respective zoning district.
- C. Each parking facility that abuts a residential district without an intervening street or alley shall provide a ten foot landscaped buffer along its common property line with the residential district.
- D. Any non-residential parking facility that abuts property in a residential district shall provide a landscape screen, or earth berm not less than six feet in height, but otherwise compliant with the provisions of Section 8-9, for the length of the common boundary. A grade change, terrace, or other site or design feature which blocks the sight line of headlights into a residential property may satisfy this requirement, subject to the determination of the Zoning Administrator.

## LANDSCAPING AND SCREENING REGULATIONS

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- E. Each unenclosed parking facility of over 6,000 square feet shall provide interior landscaped area equal to no less than 5 percent of the total paved area of the parking facility. No more than 40 spaces may be provided in a single row of parking without an intervening planting bed or island. Planting beds may also be used to define pedestrian or vehicular traffic flows within the lot. The minimum sizes of a planting bed or landscaped island shall be 8 feet by 17 feet, or 150 total square feet. Parking facilities within the LI and GI districts shall be exempt from any interior landscaping requirement. Licensed automobile dealerships are not considered to be unenclosed parking facilities for the purposes of this ordinance, and therefore do not require interior landscaping as set forth in this section.
- F. Interior landscaping shall be credited toward the satisfaction of overall landscaping requirements set forth in this section.
- G. Landscaping or screening installed in any required landscaped area shall not obstruct the view from the off-street parking facility to any driveway approach, street, alley, or sidewalk. Landscaping shall further not obstruct any views among parking spaces and circulation ways, or visibility between vehicles and pedestrians.

### **8-11** Planting Requirements

This section establishes the amount of landscaping required in each of the landscape situations set forth by this ordinance.

- A. Street Landscape Border: One deciduous tree and five shrubs, one deciduous tree and one evergreen tree, or 1.5 deciduous trees for each 500 square feet of required area.
- B. First 100 Feet of Streetyard Landscaping: One deciduous tree and five shrubs, one deciduous tree and one evergreen tree, or two deciduous trees for each 1,000 square feet of required area. All landscaping within the street landscape border shall be credited toward satisfying this requirement.
- C. Public Arterial and Collector Rights-of-Way: One tree for every 50 linear feet of right-of-way. At least 50 percent of all trees planted shall be deciduous trees.
- D. Bufferyard: One deciduous tree and two evergreen trees for each 1,000 square feet of required area. Vegetative screens shall be credited toward satisfaction of this requirement.
- E. Parking Lot Peripheral and Bufferyard Landscaping: One deciduous tree and five shrubs, one deciduous tree and one evergreen tree, or two deciduous trees for each 500 square feet of required area.
- F. Parking Lot Interior Landscaping: One deciduous tree for each 20 parking spaces within the parking lot.
- G. Residential Development: Two deciduous shade or evergreen trees, one in the front yard and one in the rear yard, shall be installed per single-family, townhouse, duplex, attached single-family or two-family dwelling unit. The trees shall be installed within two years of the start of construction.
- H. Multi-Family (High-Density Residential Areas) Development: Provide one deciduous shade or evergreen tree, or two ornamental trees, and three shrubs for every dwelling unit. These requirements are in addition to street yard or buffer yard landscaping requirements.
- I. Variety of Landscaping: A variety of tree and shrub species shall be utilized to provide visual, four-season interest. Not more than one-third of the required number of trees and shrubs may be comprised of any one species and at least one-third of the required plants should be a coniferous or evergreen species.

**8-12 Tree Replacement**

Each landscaping plan shall include an inventory of existing trees on the site. Developments that remove specified trees taller than 20 feet or larger than 12 inches in diameter(measured six inches above the ground) shall replace such trees with two (2) trees. All replacement trees must also be listed on the list of recommended species and shall have a caliper of at least three (3) inches. All replacement trees shall be consistent with the requirements of this article.

**8-13 General Landscape Provisions**

- A. Obstruction of View: Landscaping or screening installed in any landscaped area shall not obstruct the view from or to any driveway approach, street, alley, or sidewalk.
- B. Earth Berm Locations: All earth berm locations shall be reviewed by the Public Works Director or his/her designee to determine the effect of the berms on drainage and public utilities.
- C. Exceptions: A development may continue to comply with the bufferyard and screening requirements in effect at the time of issuance of its original permit, regardless of whether an adjacent lot or site is subsequently rezoned to a less intensive district that would otherwise require compliance with bufferyard or screening provisions.

# OFF-STREET PARKING

## 09

### ARTICLE NINE OFF-STREET PARKING

#### 9-1

 Purpose

The off-street parking regulations require that developments provide parking in proportion to the need created by each use. The regulations further establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles in a functionally satisfactory manner and to minimize external effects on neighboring properties.

#### 9-2

 Applicability

- A. Applicability: Off-street parking shall be provided for any new building constructed, for new uses or conversions of existing buildings, or for enlargements of existing structures.
- B. Exemptions: Any use within the CB (central business) district is exempt from the off-street parking requirements provided by Section 9-3. Any off-street parking facility constructed in the CB district after the effective date of this ordinance must comply with the design standards set forth in this article.

#### 9-3

 Schedule of Off-Street Parking Requirements

- A. Parking facilities for each use shall be provided in accord with the minimum requirements set forth in Table 9-1.
- B. Computation:
  - 1. When a computation of required parking results in a fraction of 0.5 or greater, the requirement should be rounded up to the next whole number.
  - 2. Unless otherwise indicated, parking requirements are based on gross floor area. Gross floor areas for the purpose of this calculation exclude any interior space used for the parking or loading of vehicles.
  - 3. When parking requirements are computed on the basis of capacity, capacity shall be determined by the building code in effect for the City of Plattsburgh at the time the use is established.

<b>TABLE 9.1: OFF-STREET PARKING REQUIREMENTS</b>	
<b>Agricultural Use Types</b>	
Horticulture	One space per 1,000 square feet of sales area.
Crop Production	No requirement.
Animal Production	No requirement.
Commercial Feedlots	No requirement.
<b>Residential Use Types</b>	
Single-Family Residential	Two spaces per dwelling unit.
Duplex Residential	Two spaces per dwelling unit.
Two-Family Residential	Two spaces per dwelling unit.
Multi-Family Residential	One and one-half spaces per dwelling unit; one and one-half space per two units for elderly housing.
Group Residential	One space for each two residents.
Mobile Home Residential	Two spaces per dwelling unit.
<b>Civic Use Types</b>	
Administration	One space per 500 square feet.
Cemetery	No requirement.
Clubs	One space per four-person capacity.
Convalescent Services	One space per four beds.
Cultural Services	One space per 1,000 square feet

## OFF-STREET PARKING

<b>TABLE 9.1: OFF-STREET PARKING REQUIREMENTS</b>	
Day Care Services	One space per five-person capacity + one space per employee of largest shift.
Group Care Facility	One space per four-person capacity + one space per employee of largest shift.
Group Home	One space per four-person capacity + one space per employee of largest shift.
Guidance Services	One space per 300 square feet
Health Care	One space per 300 square feet plus one space per employee of largest shift.
Maintenance Facilities	See Schedule A.
Parks and Recreation	No requirement.
Postal Facilities	See Schedule A.
Primary Education	One space per employee of largest shift plus ten stalls for visitors.
Public Assembly	One space per four-person capacity.
Religious Assembly	One space per four-person capacity in largest assembly area.
Safety Services	One space per employee of maximum shift plus one stall per 1,000 square feet.
Secondary Education	One space per employee of maximum shift + one space for each 11th and 12th grade students.
Utilities	One space per employee of maximum shift.
<b>Commercial Use Types</b>	
Agricultural Sales/Service	See Schedule A
Auto Rental and Sales	See Schedule A.
Auto Service	Three times service capacity.
Body Repair	Four spaces per repair stall.
Business Support Services	One space per 500 square feet.
Campground	One space per camping unit.
Cocktail Lounge	One space per 200 square feet.
Commercial Recreation	One space per four-person capacity.
Communications Services	One space per 500 square feet.
Construction Sales	See Schedule A.
Consumer Services	One space per 300 square feet.
Convenience Storage	One space per ten storage units.
Equipment Sales/ Service	See Schedule A.
Food Sales	One space per 300 square feet.
General Retail Services	One space per 250 square feet.
Liquor Sales	One space per 300 square feet.
Lodging	One space per unit.
Personal Improvement	One space per 300 square feet.
Personal Services	One space per 500 square feet.
Pet Services	One space per 500 square feet.
Restaurants (Drive-In)	One space per 50 square feet of customer service area.
Restaurants (General)	One space per 3 person capacity in dining area.
Stables/ Kennels	One space per employee plus one stall per 5,000 square feet of site area.
Surplus Sales	See Schedule A.
Veterinary Services	One space per 500 square feet.
<b>Office Use Types</b>	
General Offices	One space per 300 square feet.
Medical Offices	Three spaces per staff doctor or dentist.
<b>Miscellaneous Use Types</b>	
Broadcasting Tower	No requirement.
Non-Putrescible Landfill	No requirement.
All Landfills	No requirement.
<b>Industrial Use Types</b>	
Agricultural Industries	See Schedule A.
Light Industry	See Schedule A.
General Industry	See Schedule A.
Heavy Industry	See Schedule A.
Railroad Facilities	See Schedule A.
Resource Extraction	One space per employee on largest shift.
Salvage Services	See Schedule A.
Warehousing	See Schedule A.
Construction Yards	See Schedule A.

## OFF - STREET PARKING

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- C. Schedule A: This schedule sets forth minimum off-street parking requirements for uses with elements that have different functions and operating characteristics.

<b>Function of Element</b>	<b>Requirement</b>
Office or Administration	One Space per 400 Square Feet
Indoor Sales, Display, or Service Area	One Space per 500 Square Feet
Outdoor Sales, Display, or Service Area	One Space per 2,000 Square Feet
Equipment Servicing or Manufacturing	One Space per 1,000 Square Feet
Indoor or Outdoor Storage or Warehousing	One Space per 5,000 Square Feet

### **9-4 Adjustment for Special Permit Uses and Planned Mixed Use Projects**

- A. For uses subject to a special permit use approval, the Planning Commission and City Council may adjust the minimum requirements of this section, in order to provide design, usability, attractiveness, or protection to adjoining uses. Such adjustments may increase the amount of parking, or increase site development standards above the minimum requirements required by this ordinance.
- B. In mixed-use projects, different uses may have complementary parking requirements. This can result in a parking requirement that is less than the sum of parking required for each use and added separately. The Zoning Administrator may authorize an adjustment to the total parking requirement for separate uses located as part of a common development, or for separate uses located on adjacent sites and served by common parking facilities. All parking facilities subject to the mixed use adjustment must be located in a common facility, equally accessible and usable to all served uses.

### **9-5 Parking Facility Location**

- A. Residential Parking:
1. Off-street parking for residential uses shall be located on the same lot or site as the use.
  2. Off-street parking areas for any multifamily residential uses shall be at least six feet from any main building and shall not be located within a required front yard or street side yard.
- B. Non-Residential Parking: Off-street parking for nonresidential uses shall be located on the same lot or site as the use or within 300 feet of that use if the parking site is within a zoning district that permits the off-street parking use type. Control of ownership or use rights to the remote off-street parking must be demonstrated as a condition of permission.

### **9-6 Parking for People with Disabilities**

- A. Each off-street parking facility shall provide the number of parking spaces set forth below designed and designated for use by people with disabilities. Every eighth parking space shall be van-accessible. Design criteria and dimensions shall be in accordance with Federal Register, Volume 56, No. 144. Parking facilities for single-family, duplex, two-family, and mobile home residential uses are exempt from this requirement.
- B. Spaces designated for people with disabilities shall have a minimum width of eight feet and an immediately adjacent access aisle of not less than 60 inches. Each handicapped space shall provide the shortest accessible route to an accessible building entrance, and shall not require users to walk or wheel behind parked cars. Such spaces shall be designated with an upright sign exhibiting the universal symbol for accessibility by the handicapped. All such spaces shall be designed in compliance with the standards of the Americans with Disabilities Act.

## OFF-STREET PARKING

- C. Van Accessible Stalls: One in every eight accessible spaces, but not less than one, shall be served by an access aisle with a minimum width of 96 inches and shall be designated as "van accessible."

<b>TABLE 9.3: ACCESSIBLE PARKING REQUIREMENTS</b>			
<b>Number of Stalls</b>	<b>Number of Required Accessible Spaces</b>	<b>Number of Stalls</b>	<b>Number of Required Accessible Spaces</b>
1-25	1	201-300	7
26-50	2	301-400	8
51-75	3	401-500	9
76-100	4	501-1,000	2% of Total
101-150	5	1,001 and Over	20, Plus 1 for Each 100
151-200	6		Stalls over 1,000

### **9-7 Bicycle Parking**

- A. Each parking facility providing 50 spaces or more shall provide parking accommodations for bicycles as provided below:

<b>TABLE 9.4: BICYCLE PARKING REQUIREMENTS</b>	
<b>Number of Parking Stalls</b>	<b>Required Bicycle Spaces</b>
50-99	5
100-149	8
150-200	10
Over 200	Two Additional Spaces for Each 50 Parking Stalls

- B. Bicycle parking facilities shall include bicycle racks secured to prevent easy removal, bicycle lockers, or bicycle posts or bollards expressly designed for the secure storage.
- C. The location of bicycle parking facilities shall be at least as convenient to the main entrance of the primary use as the most convenient automobile parking not reserved for use by disabled people.
- D. Bicycle parking should be located to prevent hazards or obstructions to the normal flow of pedestrians into a use.

### **9-8 Off-Street Parking Design Standards**

- A. Dimensions:
1. Standard parking stalls shall be 9 feet wide and 18 feet long.
  2. Parking facilities may provide up to 25 percent of their total stalls as designated compact stalls. Compact parking stalls shall be a minimum of 8.5 feet wide and 16 feet long.
- B. Pavement and Drainage:
1. Off-street parking facilities shall be hard-surfaced (asphalt or concrete) and maintained with materials sufficient to prevent mud, dust, or loose material.
  2. Off-street parking facilities shall be designed and built to prevent the free flow of water onto adjacent properties or public rights-of-way. Parking lot design shall make maximum use of techniques that reduce the flow and velocity of storm water, such as bio-swales, grading, and on-site retention and detention.
- C. Landscape and Screening Requirements: Landscape and screening requirements for parking facilities are set forth in Article 08.

## OFF - STREET PARKING

- D. Entrances and Exits:
  - 1. Adequate access to each parking facility shall be provided by means of clearly defined and limited driveways or access points. Such driveways shall be designed to direct non-residential traffic away from residential areas.
  - 2. Parking facilities other than driveways for single-family, duplex, two-family, or mobile home residential uses must permit vehicles to enter streets in a forward position.
- E. Safety Features:
  - 1. Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating within or entering or leaving the facility, and shall not create blind, hidden, or hazardous areas.
  - 2. Circulation patterns shall be designed in accord with accepted standards of traffic engineering and safety.
- F. Maintenance: All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, and litter; maintaining parking surfaces in sound condition; and providing proper care of landscaped areas.
- G. Adjustment: For uses subject to special use permit approval, the City Council, with the recommendation of the Planning Commission, may adjust the minimum requirements of this section, in order to provide design, usability, attractiveness, or protection to adjoining uses in a manner equal to or greater than the minimum requirements of this article.

### **9-9 Off-Street Loading**

- A. Loading Requirement: Any use which involves the receipt or distribution of freight, merchandise, supplies, vehicles, or equipment as part of its typical operation shall provide and maintain adequate space for off-street loading and circulation. Loading areas shall be designed to avoid undue interference with the public use of streets and sidewalks.
- B. Loading spaces for each use requiring them shall be provided in accord with the minimum requirements set forth in Table 9-5.
- C. Design Standards:
  - 1. Each loading space shall be at least 10 feet wide by 50 feet long, with a vertical clearance of at least 14 feet.
  - 2. Paving of loading spaces and access areas shall be permanent, durable and free of dust.
  - 3. Off-street loading areas are subject to the landscaping and buffering requirements for parking facilities set forth in this article.

TABLE 9.5: OFF-SITE LOADING REQUIREMENTS	
Gross Floor Area of Use (Square Feet)	Number of Required Loading Spaces
5,000 or Less	None
5,001-25,000	1
25,001-75,000	2
Larger than 75,000	3

# OFF-STREET PARKING

## 9-10 Stacking Requirements for Drive-Through Services

- A. Commercial establishments providing drive-in or drive-through services shall provide minimum on-site stacking distance as provided below.

<b>TABLE 9.6: STACKING REQUIREMENTS</b>	
<b>Type of Operation</b>	<b>Minimum Stacking Space</b>
Financial Services with Drive-Up Tellers	Four Vehicles per Window or Kiosk
Financial Services with Drive-Up ATM	Four Vehicles per ATM Station
Self-Service or Automatic Car Wash	Entrance: Four Vehicles per Bay Exit: One Vehicle per Bay
Fast Food Restaurant*	Without Menu Boards: Four Vehicles in Front of Service Windows; With Separate Menu Boards and Service Windows: A Sum of Eight Vehicles Behind the Menu Board Plus Eight Behind the First Service Window
Drive-Up Pharmacies, Dry Cleaning, or Other Drive-Up Personal Services	Two Vehicles per Service Window
Gas Stations	Two Vehicles per Pump
Gated Parking Lot, Community Entrance, or Overhead Door	One Vehicle per Gate or Door on Local Streets; Two Vehicles per Gate or Door on Collector Streets

Note: Minimum vehicle lane shall be 12 feet. Vehicle length = 20 feet.

\* May be increased based on site plan review.

- B. The Planning Director may adjust these requirements for specific projects, provided that the applicant can present a traffic study prepared by a professional traffic engineer demonstrating that such reduction is appropriate to the function of the project. A reduction must also be recommended by the City Engineer.
- C. All drive-through services must provide adequate alternative runaround access for vehicles not in a drive-through queue.

## 9-11 Parking for Personal and Recreational Vehicles

- A. **Applicability:** This section permits the parking of personal vehicles on a single lot in a residential district subject to specific conditions. Personal vehicles include passenger cars, vans, pick-up trucks, recreational vehicles, trailers less than 40 feet in length, and boats.
- B. **Location of Parking:**
1. Parking is permitted within any enclosed structure when such structure conforms to the regulations of its zoning district.
  2. Parking is permitted outside of an enclosed structure in the side yard behind the line of the required front yard setback or in the rear yard.
  3. Parking is permitted outside of an enclosed structure within the required front yard setback, subject to the following conditions:
    - a. The parking space is provided on a paved, hard-surfaced or graveled driveway, or paved pad adjacent to the driveway.

## OFF - STREET PARKING

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- b. The vehicle is parked perpendicular to the front curb.
  - c. The vehicle does not encroach on public right-of-way.
- C. Special Provisions for Recreational Vehicles: Parking and storage of recreational vehicles, trailers, and boats is subject to the following additional conditions:
- 1. The vehicle is maintained in a clean, well-kept state.
  - 2. If the vehicle is equipped with liquefied petroleum gas containers, such containers must meet the current standards of the Interstate Commerce Commission, the United States Department of Transportation, or the American Society of Mechanical Engineers. Any valves must be closed at all times that the vehicle is not in preparation for immediate use. Leaks in containers must be repaired immediately.
  - 3. The vehicle may be used only by non-paying guests for a maximum of three consecutive days or 14 days during any calendar year.
  - 4. The vehicle may not be permanently connected to utility lines.
  - 5. The vehicle may not be used for the storage of goods, materials, or equipment other than those items which pertain to the use of the vehicle.
  - 6. The length of the vehicle shall not exceed twenty feet if the vehicle is parked or stored in a required front yard or street side yard. Longer vehicles may be parked or stored within rear yards or interior side yards behind the required front yard setback.

**10**

**ARTICLE TEN**

**SIGN REGULATIONS (Amended by Ordinance No. 1840, 12/5/2011)**

**10-1**

**Purpose**

The sign regulations provide standards for communicating information in the environment of the City of Plattsmouth and its jurisdiction. The regulations recognize the need to protect public health, safety, and welfare; to maintain the city's attractive appearance; to provide for adequate business identification, advertising, and communication of information; and to encourage the fair enforcement of sign regulations.

**10-2**

**Definition of Terms**

The following definitions shall be used for terms contained in this chapter that are not otherwise defined in the Plattsmouth Municipal Code or in this Zoning Ordinance:

- A. Abandoned Sign: A sign, including sign face and supporting structure, which refers to a discontinued business, profession, commodity, service, or other activity or use formerly occupying the site; or which contains no sign copy on all sign faces for a continuous period of six months.
- B. Attached Sign: A sign which is structurally connected to a building and/or depends upon that building for support.
- C. Awning and Awning Sign: A temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for a supporting framework. An awning sign is a message printed on such a shelter.
- D. Banner: Material with a printed message or graphic secured or mounted from a structure in such a way as to allow wind movement.
- E. Billboard: An off-premises freestanding sign, unattached to any structure and placed adjacent to a Nebraska State Highway right-of-way, which directs attention to an object, product, place, activity, business, person or persons, service or interest not situated on the same premises as the billboard. A billboard may be built on a freestanding frame, mast, or pole(s) with a clearance greater than three feet, and where the support encompasses less than 75 percent of the width of the sign. Its design and location must be approved by and conform to regulations of the State of Nebraska.
- F. Building Marker: An historic or commemorative plaque, or a building name or cornerstone carved into a masonry surface.
- G. Business Center Identification Sign: A sign which identifies a building or group of commercial buildings in single ownership or control, sharing parking and access.
- H. Canopy: A projecting non-movable structure cantilevered or suspended from a building, supported by the main structural members to which it is attached, and used only as a roof or fixed shelter.
- I. Canopy Sign: A sign which is attached or made an integral part of a canopy.
- J. Clearance: The distance from the bottom of a sign face elevated above grade and the grade below.
- K. Detached Sign: A sign which is self-supporting and structurally independent from any building.
- L. Directional Sign: A sign which serves only to designate the location or direction of any area or place.
- M. Double-Faced Sign: A sign consisting of no more than two parallel faces supported by a single structure.

## SIGN REGULATIONS

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- N. Electronic Information Sign: Any sign intended primarily to provide information of general community interest, including time, temperature, date, atmospheric conditions, news, traffic control, or commercial messages pertaining to the use on the premises, by means of an electronic display.
- O. Flag, Business: A flag displaying the name, insignia, emblem, or logo of a profit-making entity.
- P. Flag, Public: A flag displaying the name, insignia, emblem, seal, or pattern of a nation, state, county, municipality, or nonprofit organization.
- Q. Frontage: The length of a property line of any one premise abutting and parallel to a public street, private way, or court.
- R. Ground Sign: A detached on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance no greater than three feet.
- S. Illumination: Lighting sources installed for the primary purpose of lighting a specific sign or group of signs, including the following:
- 1 - Bare bulb illumination; Illumination or emphasis of signs using unshielded bulbs.
  - 2 - Direct flood illumination; Illumination of signs through floodlights whose luminous surface is visible to the normally located observer.
  - 3 - Flame; Use of open flame or torches as a light source.
  - 4 - Flashing illumination; Use of an intermittent light source, including the illusion of intermittence through animation or other external light sources. Electronic information signs are excluded from this definition, except for the flashing mode of these signs.
  - 5 - Indirect illumination; Use of a light source whose luminous surface is not visible to the normally located observer.
  - 6 - Internal Illumination; Use of a light source concealed or contained within the sign, and visible by shining through a translucent surface.
  - 7 - Neon or gas tube; Use of a light source supplied by a neon or other gas tube, bent to form letters, symbols and other shapes.
  - 8 – Advertising signs may be illuminated by indirect and internal lighting only, subject to the following conditions: Signs may not contain or be illuminated by flashing lights.
  - 9 - Signs may include an electronic information sign.
  - 10 - Lighting shall be shielded to direct light away from streets and surrounding property and shall not cause glare or impair vision.  
Notwithstanding this subsection, electronic off-premises advertising signs shall be permitted, but only to the extent allowed by other sections of this code.
- T. Informative Sign: An on-premise sign that provides an instruction or direction to the public, but contains no other advertising, message, or decoration.
- U. Kiosk, Advertising: A cylindrical or two-side structure on a sidewalk used to post directions, advertisements or announcements of events.

## SIGN REGULATIONS

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- V. Marquee: A permanent roofed structure attached to and supported by a building and extending over public right-of-way.
- W. Maximum Permitted Sign Area: The maximum permitted combined area of all signs allowed on a specific property.
- X. Monument Sign: An on-premise freestanding sign with the appearance of a solid base. The width of such base shall be at least 75 percent of the width of the sign. The design of a monument sign must be compatible with the architecture of the building or surrounding area.
- Y. Moving Sign: A sign which conveys its message through rotating, changing, or animated elements.
- Z. Nonconforming Sign: A sign that was legally erected prior to the adoption of this chapter but which violates the regulations of this chapter.
- AA. Off-Premises Sign: A sign that advertises products or services that are not sold, produced, manufactured or furnished on the property where the sign is located. An outdoor display is an off-premises sign. Other examples include billboards and bus benches.
- BB. Pole Sign: An on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance greater than three feet, and where the support encompasses less than 75 percent of the width of the sign.
- CC. Portable Sign: Any sign supported by frames or posts rigidly attached to bases not permanently attached to the ground or a building and capable of being moved from place to place.
- DD. Premise Identification Sign: Any sign which pertains to the use of a premises and which contains information about the owner or operator of that use, the type of business being conducted or the principal brand name of a commodity sold on the premises, and other information relative to the conduct of the use.
- EE. Premises: A tract of one or more lots or sites which are contiguous and under common ownership or control.
- FF. Projecting Sign: A sign other than a wall sign that is attached to and projects from a building face.
- GG. Residential Sign: A small detached or attached sign located on a residential premise, conveying a message communicated by the owner of the property.
- HH. Roof Sign: Any sign or part of sign erected upon, against, or directly above a roof or on top of or above the parapet or cornice of a building.
  - 1. Integral Roof Sign: A roof sign positioned between an eave line and the peak or highest point on a roof, substantially parallel to the face of a building.
  - 2. Above-Peak Roof Sign: A roof sign positioned above the peak of a roof or above a parapet or cornice.
- II. Sign: A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.
- JJ. Sign Type: A functional description of the use of an individual sign. Includes owner identification, advertising, directional, electronic message, and temporary.

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- KK. Street Facade: Any separate external face of a building, including parapet walls and omitted wall lines, oriented to and facing a public street, private way, or court. Separate faces oriented in the same direction or within 45 degrees of one another are considered part of the same street facade.
- LL. Temporary Signs: A sign, flag, banner, pennant, or valance constructed of light weight materials which is not permanently attached to building or land, and which is intended for display for a limited period of time.
- MM. Wall Sign: A sign attached to and parallel with the side of a building.
- NN. Window Sign: A sign painted on or installed inside a window for the purpose of viewing from outside the premises.
- OO. Zone Lot: A parcel of land in single ownership that is large enough to meet the minimum zoning requirements of its zoning district and can provide such yards and other open spaces that are required by the site development regulations.

### **10-3** General Sign and Street Graphics Regulations

- A. Compliance: Each sign or part of a sign erected within the zoning jurisdiction of the City of Plattsburgh must comply with the provisions of this chapter and of other relevant provisions of the City of Plattsburgh's Municipal Code.
- B. Resolution of Conflicting Regulations: This chapter is not meant to repeal or interfere with enforcement of other sections of the City of Plattsburgh's Municipal Code. In cases of conflicts between code sections, state or federal regulations, the more restrictive regulations shall apply.
- C. Prohibited Signs: The following signs are prohibited in all zoning districts:
  - 1. Signs painted on or attached to rocks, trees, or other natural objects.
  - 2. Signs or sign structures which resemble or conflict with traffic control signs or devices, which mislead or confuse persons traveling on public streets, or which create a traffic hazard.
  - 3. Signs on public property, unless specifically authorized by the appropriate public agency.
  - 4. Signs which create a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscure official signs or signals.
  - 5. Abandoned Signs: Any abandoned sign must be removed within six months of date of abandonment.
  - 6. Pole signs.
  - 7. Portable signs, including signs painted, mounted, or printed on parked vehicles and trailers.
  - 8. Signs that are not clean or in substantial good repair, or are not affixed to a sound structure.
  - 9. Signs advertising activities that are illegal under federal, state, or local laws and regulations.
- D. Exempt Signs: The following signs are permitted in any zoning district and are exempt from other provisions of this chapter:
  - 1. Bulletin boards for religious assembly or school uses, provided that they have a maximum sign area of 20 square feet and are not located in a required sign setback.

## SIGN REGULATIONS

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2. Real estate signs, no larger than 12 square feet, which are placed on the property that is for sale.
  3. Official signs authorized by a government or governmental subdivision which give traffic, directional, or warning information, such as an advertising kiosk.
  4. Seasonal decorations for display on private or public property.
  5. On-premise construction signs.
  6. Temporary signs for grand openings or special events.
  7. Works of graphic art painted or applied to building walls which contain no advertising or business identification messages.
  8. Residential signs under four square feet in size.
  9. Neighborhood or subdivision identification signs under 50 square feet.
  10. Street numbers.
  11. Signs which are not visible from a public right-of-way, private way, or court or from a property other than that on which the sign is installed.
- E. Bufferyards: No sign other than on-premise directional signs shall be placed within any bufferyard required by Article Eight, Landscaping and Screening Regulations, except bufferyards adjacent to intervening major streets.
- F. Vision-Clearance Area: No sign may project into or be placed within a vision-clearance area defined by a triangle with legs of 40 feet from the point at which the curbs or edges of two intersecting streets, private ways, or courts or an intersecting street, private way, or court and driveway meet.

### **10-4** General Regulations: Basic Design Elements for On-Premise Signs

- A. Wall Signs and Graphics: Wall signs and graphics are subject to the following general regulations.
1. A wall sign shall not extend more than 30 inches from the wall to which it is attached.
  2. A wall sign must be parallel to the wall to which it is attached.
  3. A wall sign may not extend beyond the corner of the wall to which it is attached, except where attached to another wall sign, it may extend to provide for the attachment.
  4. A wall sign may not extend beyond its building's roof line.
  5. A wall sign attached to a building on its front property line may encroach upon public right-of-way by no more than 18 inches. Such a wall sign shall provide minimum clearance of eight feet six inches.
  6. For the purpose of calculating permitted sign areas pursuant to this chapter, signs painted on the walls of buildings shall be considered wall signs.
  7. Where permitted, canopy signs are counted as wall signs when calculating total permitted sign area.

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- B. Projecting Signs and Graphics: Projecting signs and graphics are subject to the following general regulations.
1. The maximum projection of any projecting sign shall be as follows:
    - a. Six feet, six inches (6'-6") over public sidewalks less than 12 feet wide;
    - b. Eight feet (8'-0") over public sidewalks 12 feet wide or more, or over private property.
  2. A projecting sign may be no closer than two feet from the vertical plane of the inside curb line.
  3. Each projecting sign must maintain at least the following vertical clearances:
    - a. Eight feet, six inches (8'-6") over sidewalks; except that a canopy may reduce its vertical clearance to 7 feet, 6 inches;
    - b. Ten feet (10'-0") for signs located outside of driveways or parking areas, but within three feet of such areas; or within 50 feet of the right-of-way lines formed by the intersection of two or more streets;
    - c. Fourteen feet (14'-0") over parking lots;
    - d. Eighteen feet (18'-0") over alleys or driveways.
  4. No projecting sign extending three feet or more from a property line may be located within 22 feet of any other projecting sign extending three feet or more from a property line.
  5. Projecting signs must minimize visible support structure and may not expose guy wires, cables, turnbuckles, angle iron, or other similar external support structure.
- C. Roof Signs: Roof signs are subject to the following regulations:
1. Where permitted, integral roof signs may be used interchangeably with wall signs.
  2. Integral roof signs may not exceed the permitted height for pole signs.
  3. An integral roof sign must be mounted parallel to the wall of the building that it faces.

### **10-5** General Regulations: Other Design Elements

- A. Brightness: The maximum brightness of the sign shall not exceed a luminance of 5,200 NITS (candles per square meter) during daylight hours, or 0.3 foot-candles over ambient lighting, whichever is less. The maximum brightness of the sign shall not exceed a luminance of 500 NITS during the period from dusk to dawn, or 0.3 foot-candles over ambient lighting, whichever is less. The sign shall have an automatic dimmer control or ambient light monitors to produce an illumination change from a higher illumination level to a lower one for the period of time from dusk to dawn (or any other applicable conditions based on ambient light). There shall be a minimal brightness differential from an image with a white or light-colored background/content to one with a black or darker background/content (and vice versa). Screen transitions should not appear to flash due to brightness differential.
- B. Electronic off-premises signs (billboards): Any off-premises advertising sign which by electronic means provides for a changing, moving or otherwise animated message. Such a sign may include information of general community interest and any type of commercial messages but shall not be considered an electronic information sign. Digital and LED type billboards are examples of an electronic off-premises sign.
- C. An electronic off-premises sign contains only one image being shown at a time. It may consist of a back-to-back sign with a static sign face on the opposite side. Back-to-back electronic off-premises signs shall

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be permitted: however, back-back electronic off-premises signs shall be counted as two signs for the purposes of removal requirements. No electronic off-premises sign shall be allowed to have two or more separate faces side by side.

- D. Image restriction: Any image or message displayed on the sign must have a minimum duration time of ten seconds. Each image shown must be static and not contain any type of motion, animation, scrolling of text, or sequential displays designed to appear as such.
- E. Transition time: The transition from one image to another shall appear instantaneous. The use of specialized transitions or other special effects during transition is prohibited. The sign shall have a default mechanism that will stop the sign in one fixed position should a malfunction occur.
- F. Illumination: Lighting, when installed, must be positioned in such a manner that light is not directed onto an adjoining property or onto a public street or highway and shall not cause glare or impair vision.
- G. Marquees and Marquee Signs: Signs placed on, attached to, or constructed on a marquee are subject to the maximum projection and clearance regulations of projecting signs.
- H. Moving signs: Advertising signs shall not revolve or rotate. Slow and continuous motion or rotation within a portion of the sign face comprising less than 38 percent of the area of such sign shall be permitted.
- I. Banners:
  - 1. A banner sign projecting from a building may not exceed the wall height of the building.
  - 2. Maximum projection for any banner is five feet, with a minimum clearance of ten feet.
  - 3. Maximum size of a banner is the lesser of twice the permitted size of a projecting sign or 120 square feet.
- J. Clocks: For the purposes of this chapter, clocks are not considered a moving sign.

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TABLE 10.1: PERMITTED SIGNS BY TYPE AND ZONING DISTRICT													
Sign Type	AG	RR	R-1	R-2	R-3	MH	LC	UC	CBD	GC	BP	GI	HI
<b>Detached Signs</b>													
Residential	P	P	P	P	P	P	P	P	N	N	N	N	N
Business Identification	P	P	P (C)	P (C)	P	P	P	P	P	P	P	P	P
Incidental	P (C)	P (C)	P (C)	P (C)	P	P (C)	P	P	P	P	P	P	P
Ground	P	P	P	P	P	P	P	P	P	P	P	P	P
Pole	N	N	N	N	N	N	N	N	N	N	N	N	N
<b>Attached Signs</b>													
Awning	N	N	N	N	P	P	P	P	P	P	P	P	P
Banner	N	N	N	N	N	N	P	P	P	P	P	P	P
Building Marker	P	P	P	P	P	P	P	P	P	P	P	P	P
Canopy	N	N	N	N	N	N	P	P	P	P	P	P	P
Business Identification	P	P (C)	P (C)	P (C)	P	P	P	P	P	P	P	P	P
Incidental	P (C)	P (C)	P (C)	P (C)	P	P	P	P	P	P	P	P	P
Marquee	N	N	N	N	N	N	P	P	P	P	P	P	P
Projecting	N	N	N	N	N	N	N	P	P	P	P	P	P
Roof, Integral	N	N	N	N	N	N	P	P	P	P	P	P	P
Roof, Above Peak	N	N	N	N	N	N	N	N	N	P	N	P	P
Wall	P	P	P	P	P	P	P	P	P	P	P	P	P
Window	N	N	N	N	N	N	P	P	P	P	P	P	P
<b>Miscellaneous</b>													
Off-Premises	P	N	N	N	N	N	N	N	N	P	P	P	P
Flag	P	P	P	P	P	P	P	P	P	P	P	P	P
Billboard	P	N	N	N	N	N	N	N	N	N	N	N	N
Moving Signs	N	N	N	N	N	N	N	N	P	P	P	P	P
Portable	N	N	N	N	N	N	N	N	N	N	N	N	N

P = Permitted for All Uses

P(C) = Permitted for Civic Uses

N = Not Permitted

TABLE 10.2: MAXIMUM PERMITTED SIGN AREA FOR ZONE LOT BY ZONING DISTRICT										
<i>The Maximum Permitted Area for all signs on a premises excluding incidental signs, building marker signs, and flags shall not exceed the lesser of the following:</i>										
Zoning District	AG	RR R-1 R-2	R-3 MH	LC	UC	CBD	BP	GC	GI HI	
Square Feet of Signage per Linear Foot of Frontage	N/A	N/A	N/A	.50	.75	1.0	1.0	2.0	2.0	
Maximum Total Square Feet	Note 1	Note 2	Note 3	100 Note 4	200 Note 4	200	300	300 Note 5	400	

**Note 1:** 100 square feet for civic or commercial uses, four square feet for residential uses.

**Note 2:** 32 square feet for civic uses, four square feet for residential uses.

**Note 3:** 75 square feet for project identification signs for multi-family or mobile home developments and for civic uses; four square feet for other residential uses.

**Note 4:** Maximum limits apply to non-residential premises only. On premises with a primary residential use, 75 square feet for project identification signs for multi-family developments, four square feet for other residential uses.

**Note 5:** One business center identification sign with a maximum area of 150 square feet is permitted subject to the regulations set forth by Table 10-3.

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<b>TABLE 10.3: PERMITTED SIGNS BY NUMBERS, DIMENSIONS, AND LOCATION</b> <i>Each individual sign shall comply with the regulations for maximum quantity, maximum size, minimum setbacks, and height limits shown in this table:</i>									
Zoning District	AG	RR R-1 R-2	R-3 MH	LC	UC	CBD	GC (Note 1)	BP	GI HI
<b>Detached Signs</b>									
Number Permitted Per Premise	1	1	1	1	N/A	1	N/A	NA	N/A
Per Feet of Frontage	N/A	N/A	N/A	N/A	1 Per 300	N/A	1 Per 200	1 Per 200	1 per 200
<b>Maximum Size*</b> (Square Feet)	100*	32*	75*	75*	100*	100	150	150	200
<b>Maximum Height</b> (Feet)	25	10	10	15	25	25	35	35	35
<b>Front Yard Setback</b> (Feet)	25	5	10	10	10	0	5	5	0
<b>Side Yard Setback</b> (Feet)	10	10	10	10	5	0	5	5	0
<b>Attached Signs</b>									
<b>Maximum Size*</b> (Square Feet)	100	32*	75*	75	100	100	150	200	200
<b>Percentage of Street Facade</b>	N/A	N/A	N/A	20%	20%	20%	25%	25%	25%

\* For those uses only permitted a sufficient maximum sign area in Table 10-2.

**Note 1:** In addition to its total permitted sign area, each premises used for a business center may have one detached center identification sign, subject to the following conditions:

- A. The maximum area for a center identification sign shall be 150 square feet.
- B. No center identification sign shall be within 300 feet of any other center identification sign or within 150 feet of any other detached sign on the same or adjacent premises.
- C. The sign shall display no more than the name and location of the business center.
- D. Each sign shall be subject to all other regulations for detached signs or graphics set forth in this article.

### **10-6 Specific Regulations for Zoning Districts**

This section sets forth regulations and design standards for signs and graphics for each zoning district.

### **10-7 Measurement of Regulators**

- A. **Maximum Permitted Sign Area:** Maximum permitted sign area for a premise is set forth as a numerical limit or as a function of the frontage of the premises on a street or private way. For properties with frontage on more than one street or private way, the total frontage shall be calculated as the longest frontage plus one-half the length of all additional frontages.
- B. **Sign Area:**
  1. Sign area includes the entire area within the perimeter enclosing the extreme limits of the sign, excluding any structure essential for support or service of the sign, or architectural elements of the building.
  2. The area of double-faced signs is calculated on the largest face only.
  3. The sign area for ground signs, monument signs, and architectural sign bands is calculated as the area enclosing the extreme limits of the sign copy only.

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4. In the case of individual letters mounted to a wall, only the total area of the letters themselves is included within the sign area.
- C. Height: The height of a sign is measured from the average grade level below the sign to the topmost point of the sign or sign structure.
- D. Setback: The setback of a sign is measured from the property line to the supporting frame, mast, pole, or base of the sign.

### **10-8 Permitted Sign Types by Zoning Districts**

Table 10-1 sets forth the sign types permitted within each zoning district of the City of Plattsmouth.

### **10-9 Maximum Permitted Sign Area**

Table 10-2 sets forth the maximum sign area permitted within each zoning district of the City of Plattsmouth.

### **10-10 Permitted Signs by Numbers, Dimensions, and Location**

Table 10-3 sets forth the maximum permitted numbers of signs per premise; the maximum permitted dimensions of each sign; and the required setbacks for detached signs.

### **10-11 General Permit Procedures**

- A. Applicability: Any installation, modification, or expansion of any sign which is not exempt from the provisions of this article shall be subject to the following permit procedure prior to installation.
- B. Applications: All applications for sign permits shall be submitted to the Building Official in accordance with application specifications established by the Building Official.
- C. Fees: Each application for a sign permit shall be accompanied by any applicable fees, which shall be established by the City Council from time to time by resolution.
- D. Action: Within seven work days of the submission of a complete application for a sign permit, the Building Official shall either:
  1. Issue the sign permit, if the sign conforms to the provisions of this article.
  2. Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform with the requirements of this article.
- E. Permit Expiration: If a sign is not constructed in accordance with an approved permit within six months of the date of approval, such permit shall lapse.
- F. Maintenance of Valid Sign Permit: The owner of a property containing signs requiring a permit under this ordinance shall at all times maintain in force a sign permit for such property. Sign permits shall be issued for individual zone lots, notwithstanding the fact that a particular zone lot may be included with other zone lots in a common signage plan.
- G. Assignment of Sign Permits: A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises.

**10-12** **Repair or Modification of Nonconforming Signs**

- A. Any nonconforming sign which presently is or becomes structurally damaged or deteriorated, or is altered by more than 50 percent of its replacement cost, shall be either removed or altered so as to comply with this article.

For business centers pre-existing on the effective date of this ordinance which do not conform to the total permitted sign area provisions of this article, individual signs may be replaced, modified, or substituted prior to the effective date of this amended chapter. Each sign shall conform to the applicable regulations for individual signs and shall be installed so as to reduce the total amount of the nonconformance.

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**ARTICLE ELEVEN  
NONCONFORMING DEVELOPMENT**

**11-1 Purpose (Amended by Ordinance 1950 4/15/2019)**

Article Eleven shall be known as the nonconforming development regulations. The purposes of these regulations are:

- A. To allow for reasonable use of legally created lots of record which do not meet current minimum requirements for their respective zoning districts.
- B. To provide for reasonable use of legally constructed structures which do not meet current site development regulations for their respective zoning districts.
- C. To allow for the reasonable continuation of legally established uses which do not meet current use regulations for their respective zoning districts.
- D. To limit the continuation and provide for the gradual replacement of nonconforming uses.

**11-2 Regulations Additive**

Regulations for nonconforming uses are in addition to regulations for nonconforming structures. In the event of a conflict, the most restrictive regulation shall apply.

**11-3 Nonconforming Lots**

- A. **Pre-Existing Lots of Record:** Nonconforming lots of record existing at the time of the adoption of this chapter shall be exempt, unless otherwise provided, from the minimum lot area and lot width requirements of each zoning district. Such lots may be developed with any use allowed by the regulations for the district and must comply with all other site development regulations set forth by the Zoning Ordinance.
- B. **Reductions Due to Public Acquisition:** If a portion of a legally existing lot in any district is acquired for public use, the remainder of this lot shall be considered a conforming lot.

**11-4 Nonconforming Structures**

These regulations apply to buildings and structures which were constructed legally under regulations in effect before the effective date of this ordinance.

- A. **Continuation:** A lawful nonconforming structure existing on the effective date of this title may be continued, repaired, maintained, or altered, subject to the provisions of this section.
- B. **Additions or Enlargements to Nonconforming Structures:**
  - 1. A lawful nonconforming structure may be added to or enlarged if the addition satisfies one or more of the following conditions:
    - a. The enlargement or addition, when considered independently of the existing building, complies with all applicable setback, height, off-street parking, and landscaping requirements.
    - b. The nonconforming building and impervious surface coverages on the site are not increased and the building, after the addition, conforms to height and off-street parking regulations applicable to its zoning district.

## NONCONFORMING DEVELOPMENT

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- c. The addition projects no further into a required side yard setback than the existing building, the length of the side wall of the addition is the smaller of 25 feet or 50 percent of the length of the existing nonconforming side wall, and the enlarged building complies with building and impervious coverage, front and rear yard setbacks, and height regulations applicable to its zoning district.
- 2. No permitted addition to a nonconforming structure may place a wall within ten feet of a window of an adjacent pre-existing residential structure.
- 3. Nonconforming buildings shall be limited to one addition or enlargement pursuant to these regulations.
- C. **Moving of Nonconforming Structures:** A lawful nonconforming building or structure shall not be moved in whole or in part to another location on its lot unless every part of the structure conforms to all site development regulations applicable to its zoning district.
- D. **Repair of Nonconforming Structures:** A lawful nonconforming building damaged by fire, explosion, storm or other calamity, except flood damages, may be repaired and reconstructed provided there is no increase in the degree of nonconformity. Repair and reconstruction within the designated floodplain shall be in conformance with floodplain development regulations.
- E. **Conversion of a Conforming Building:** A conforming building shall not be changed in any way that will result in a nonconforming development.
- F. **Applicability of Landscaping and Screening Regulations:** A pre-existing structure, building, or development shall be exempt from Article Eight, Landscaping and Screening Regulations. However, any expansion of such structure, building, or development or any adjacent new development onto property that is or becomes vacant on or after the effective date of this ordinance shall be subject to Article Eight.

### **11-5 Nonconforming Uses (Amended by Ordinance No. 1950 4/15/2019)**

- A. **Continuation of Nonconforming Uses:** Any nonconforming use lawfully existing on the effective date of this ordinance may continue, subject to the limitations of this section.
- B. **Enlargement of Nonconforming Uses:** A building or structure housing a lawful nonconforming use may not be added to or enlarged.
- C. **Abandonment of Nonconforming Use:** If any structure or property used as a lawful nonconforming use becomes vacant or unused for a continuous period of six months, any subsequent use must conform to all use regulations applicable to the property's zoning district.
- D. **Change of Use:** A lawful nonconforming use may be changed to another nonconforming use provided that no structural changes are made, subject to the recommendation of the Planning Commission for a Special Use Permit pursuant to Article Twelve and the approval of such recommendation by the City Council. In order to approve such a change of use, the City Council must find that the proposed use is equally or more consistent than the current nonconforming use with the purpose of the base zoning district in which the subject property is located and the uses lawfully permitted within such base zoning district. In permitting such change, the Council may require appropriate conditions and safeguards in accordance with the provisions of this ordinance.

## NONCONFORMING DEVELOPMENT

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- E. Allowance for Repairs: Repairs and maintenance of a structure occupied by a nonconforming use may be made, provided that no structural alterations are made other than those required by law.
- F. Damage or Destruction of Structures: Should a structure occupied by a lawful nonconforming use be damaged to the extent that the cost of restoration exceeds 50 percent of the replacement cost of the structure, the nonconforming use shall no longer be permitted.
- G. Nonconforming Uses and Conditional and Special Use Permits: A lawful pre-existing use which would require a special use permit in its zoning district shall be presumed to have the appropriate permit and shall be considered a conforming use. The use shall be subject to the regulations governing lapses or revocation of permits, set forth in Article Twelve.

**ARTICLE TWELVE  
ADMINISTRATION AND PROCEDURES**

**12-1 Purpose**

The administration and procedures provisions establish the methods for implementation of the Zoning Ordinance. These provisions include procedures for reviewing specific uses within certain zoning districts, amending the Zoning Ordinance, and granting variances.

**12-2 Zoning Enforcement Officer**

- A. Role Filled by Building Official: The role of the Zoning Enforcement Officer shall be filled by the City of Plattsmouth Building Official.
- B. Powers and Duties: The Zoning Enforcement Officer shall exercise the following powers and duties:
  - 1. The Zoning Enforcement Officer or the officer's designees shall exercise all enforcement powers, including, but not limited to, investigation of complaints of zoning violations, issuance of notices to violators, and preparation and submission to the City Attorney reports of those zoning violations which continue unabated after exhaustion of reasonable administrative remedies toward their abatement, for such legal action as the facts of each report may require.
  - 2. The Zoning Enforcement Officer shall determine the use type for any use.
  - 3. In all cases in which the city commences court action, the Zoning Enforcement Officer shall cooperate with the City Attorney by performing such additional investigative work as the City Attorney shall require.
  - 4. The Zoning Enforcement Officer or the officer's designee shall attend the meetings of the Planning Commission and the Board of Adjustment as requested by those bodies, shall investigate and review all cases presented to the Board of Adjustment, and shall advise that body on those cases upon request.
  - 5. If the City Attorney, after analysis of the report, institutes legal proceedings, the Zoning Enforcement Officer will cooperate fully with the legal department in the perfecting of such proceedings.

**12-3 Site Plan Review Procedures**

- A. Purpose: The site plan review procedure provides for the administrative review in addition to plan review required by other sections of the Plattsmouth Municipal Code of projects that have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.
- B. Administration: The Building Official shall review, evaluate, and act on all site plans submitted pursuant to this procedure. Site plan actions of the Building Official related to enforcement of the Zoning Ordinance may be appealed to the Board of Adjustment. All appeals regarding actions of the Building Official unrelated to the Zoning Ordinance may be appealed to the Planning Commission and City Council.

## ADMINISTRATION AND PROCEDURES

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- C. Uses Requiring Site Plan Review: The following selected uses shall follow the site plan review procedure prior to the issuance of a building permit, unless they are otherwise subject to a special use permit procedure for specific zoning districts:
1. Multiple-family residential developments with 20 or more dwelling units.
  2. Educational facilities.
  3. Automotive washing.
  4. Automotive sales.
  5. Any use including drive-in services.
  6. Any commercial, industrial, or office building providing over 15,000 square feet in building area.
  7. Any industrial use adjacent to a residential zoning district.
- D. Application Requirements: An application for a site plan review may be filed by the owners of a property or the owners' authorized agent with the Building Official. The application shall include the following information:
1. Name and address of the applicant.
  2. Owner, address, and legal description of the property.
  3. A description of the nature and operating characteristics of the proposed use.
  4. A site plan, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
    - a. The date, scale, north point, title, name of owner, and name of person preparing the site plan.
    - b. The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.
    - c. The location, size, and use of proposed and existing structures on the site.
    - d. The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping, and lighting.
    - e. Location of any major site feature, including drainage and contours at no greater than five foot intervals.
    - f. Any other information that may be required for review by the Building Official.
- E. Administrative Action and Appeal: The Building Official must act upon each complete application within ten working days of filing. An applicant may appeal a zoning determination made as part of the site plan review to the Board of Adjustment within ten days of the action. The Board of Adjustment shall consider the appeal at the first available meeting after the filing of the appeal.
- F. Review and Evaluation:
1. The Building Official shall review and approve the site plan based on the criteria established in Table 12-1 and conformance with applicable regulations in this Zoning Ordinance.

## ADMINISTRATION AND PROCEDURES

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2. The Building Official shall make the following findings before approval of the site plan:
  - a. The proposed development, together with any necessary modifications, is compatible with the criteria established in Table 12-1.
  - b. Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.
  - c. The site plan conforms to the Zoning Ordinance.
- G. **Modification of Site Plan:** The Building Official may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than base district regulations and may include, but not be limited to, additional landscaping or screening, installation of erosion control measures, improvement of access or circulation, rearrangement of structures on the site, or other modifications deemed necessary to protect the public health, safety, or welfare.
- H. **Term and Modification of Approval:**
  1. A site plan approval shall become void two years after the date of approval, unless the applicant receives a building permit and diligently carries out development prior to the expiration of this period.
  2. The Building Official may approve an application to modify a previously approved site plan if he/she determines that the modification does not affect findings related to the criteria set forth in Table 12-1.
  3. The Building Official may revoke a site plan approval if he/she determines that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Board of Adjustment.
  4. **Approval to Run with Land:** An approval pursuant to this section shall run with the land until the expiration date of such approval.

### **12-4 Special Use Permit Procedure**

- A. **Purpose:** The special use permit procedure provides for public review and discretionary City Council approval for uses within zoning districts which have unusual site development or operating characteristics that could adversely affect surrounding properties.
- B. **Administration:** The Planning Commission shall review and evaluate each application and transmit its recommendation to the City Council. The City Council shall review, evaluate, and act upon all applications submitted pursuant to this procedure.
- C. **Application Requirements:** An application for a special use permit may be filed by the owners of a property or the owners' authorized agent with the Building Official. The application shall include the following information:
  1. Name and address of the applicant.
  2. Owner, address, and legal description of the property.
  3. A description of the nature and operating characteristics of the proposed use.
  4. Any graphic information, including site plans, elevations, or other drawings necessary to describe the proposed use to approving agencies.

## ADMINISTRATION AND PROCEDURES

- D. Approval Process:
1. The Planning Commission, following proper notice, shall hold a public hearing on each special use permit and, following such public hearing, shall recommend action to the City Council
  2. The City Council, after publication and public hearing, shall act on the special use permit. If the Planning Commission recommends denial of the special use permit, a majority plus one of the City Council is required for approval. The City Council may apply any reasonable conditions to the approval of the permit.
- E. Criteria for Review: The Planning Commission and the City Council shall review and approve the site plan based on the criteria established in Table 12-1 and conformance with applicable regulations in this Zoning Ordinance.

<b>TABLE 12.1: CRITERIA FOR SITE PLAN REVIEW AND SPECIAL USE PERMITS</b>			
<b>CRITERIA</b>		<b>APPLICATION TO</b>	
		<b>Site Plan Review</b>	<b>Special Use Permit</b>
<b>Land Use Compatibility</b> Development Density	Site area per unit or floor area ratio should be similar to surrounding uses if not separated by major natural or artificial features		X
<b>Height and Scale</b> Height and Bulk	Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations.	X	X
Setbacks	Development should respect pre-existing setbacks in surrounding area. Variations should be justified by site or operating characteristics.	X	X
Building Coverage	Building coverage should be similar to that of surrounding development if possible. Higher coverage should be mitigated by landscaping or site amenities.	X	X
<b>Site Development</b> Frontage	Project frontage along a street should be similar to lot width.	X	X
Parking and Internal Circulation	Parking should serve all structures with minimal conflicts between pedestrians and vehicles. All structures must be accessible to public safety vehicles. Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points.	X X X	X X X
Landscaping	Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainage ways should be preserved.	X	X
<b>Building Design</b>	Architectural design and building materials should be compatible with surrounding areas or highly visible locations.		X
<b>Operating Characteristics</b> Traffic Capacity	Project should not reduce the existing level of traffic service on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations.	X	X
External Traffic Effects	Project design should direct non-residential traffic away from residential areas.	X	X
Operating Hours	Projects with long operating hours must minimize effects on surrounding residential areas.	X	X
Outside Storage	Outside storage areas must be screened from surrounding streets and less intensive land uses.	X	X

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<b>Public Facilities</b>			
Sanitary Waste Disposal	Developments within 500 feet of a public sanitary sewer must connect to sewer system. Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare. Sanitary sewer must have adequate capacity to serve development.	X X	X X
Storm Water Management	Development should handle storm water adequately to prevent overloading of public storm water management system. Development should not inhibit development of other properties. Development should not increase probability of erosion, flooding, landslides, or other run-off related effects.	X X X	X X X
Utilities	Project must be served by utilities.	X	X
<b>Comprehensive Plan</b>	Projects should be consistent with the comprehensive development plan of Plattsmouth.		X

- F. Scope of Approval: The City Council may, at its discretion, apply a special use permit to a specific owner or applicant. The City Council may establish special site development or operational regulations as a condition for approval of a special use permit.
- G. Lapse and Revocation of Permit:
1. A special use permit shall become void two years after its effective date if the applicant has not carried out development or occupancy during that period.
  2. The City Council may revoke a special use permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.
- H. Previously Approved Permits: Any special use approved under regulations in effect before the effective date of this ordinance shall be considered to have a valid special use permit; subject to requirements imposed at the time of its approval.

### **12-5 Amendment Procedure (Ord No. 2015 6/3/2024)**

- A. Purpose: The amendment procedures describe the methods by which changes may be made in the text of the Zoning Ordinance (text amendment) and/or the official boundaries of zoning districts (rezoning).
- B. Initiation of Amendments:
1. Text amendments may be initiated only by either (a) the Zoning Administrator at his/her discretion or (b) a duly approved motion of the City Council.
  2. Rezoning or changes to the zoning map may be initiated only by (a) an application of the record owner of property involved or his/her authorizing agent; (b) the Zoning Administrator at his/her discretion; or (c) a duly approved motion of the City Council.
- C. Rezoning Application Requirements: An application for a rezoning shall be filed with the Building Official. The application shall include the following information:
1. Name and address of the applicant.
  2. Owner, address, and legal description of the property.
  3. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.
  4. Any graphic information, including site plans, elevations, or other drawings, necessary to describe the proposed use to approving agencies.

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- D. Amendment Process:
1. The Planning Commission, following ten days notice, shall hold a public hearing on each proposed text or rezoning and, following such public hearing, shall recommend action to the City Council.
  2. The City Council, after publication and public hearing, shall act on the proposed amendment: If the Planning Commission recommends denial of the amendment, a majority plus one of the City Council is required for approval.
- E. Required Notice and Publication: Prior to consideration of amending, supplementing, changing, modifying, or repealing this ordinance by the governing body, notice of public hearings shall be provided as follows:
1. Notice: A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than 18 inches in height and 24 inches in width with a white background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change such posted notice prior to such hearing.
  2. Publication: At least ten days before the date of hearing, the City Clerk shall have published in a daily newspaper having a general circulation in the City of Plattsburgh a notice of the time, place, and subject matter of such hearing.

### **12-6 Extension of the Extra-Territorial Jurisdiction**

Upon the automatic extension of the two-mile extra-territorial jurisdiction due to annexation, the City Council with the recommendation of the Planning Commission, shall zone properties within the newly established jurisdiction concurrent with adoption of the annexation ordinance. The zoning shall consider the Comprehensive Development Plan of the City of Plattsburgh and the present use of the land.

### **12-7 Building Permits and Certificates of Zoning Compliance**

- A. Administration and Enforcement:
1. The Building Official shall administer and enforce this ordinance. The City Council may direct other persons to assist him/her.
  2. If the Building Official shall find that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.
- B. Building Permits Required: No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore issued by the administrative official. No building permit shall be issued by the administrative official except in conformity with the provisions of this ordinance, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by this ordinance.

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- C. Application for Building Permit:
1. All applications for building permits shall include plans if applicable in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this ordinance.
  2. One copy of the plans shall be returned to the applicant by the administrative official, after he/she shall have marked such copy either as approved or disapproved and attested to same by his/her signature on such copy. One copy of the plans, similarly marked, shall be retained by the administrative official.
- D. Certificates of Zoning Compliance for New, Altered or Non-Conforming Uses: It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the administrative official stating that the proposed use of the building or land conforms to the requirements of this ordinance.
- E. Expiration of Building Permit:
1. If the work described in any building permit has not begun within 180 days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the administrative official, and written notice thereof shall be given to the persons affected.
  2. If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be cancelled by the administrative official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.
  3. The expiration date of a building permit may be established for a period longer than two years if established at the time that such permit is issued by the city. The Building Official may, at his/her discretion extend the expiration period of the building permit.
- F. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance: Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this ordinance, and punishable as provided by section hereof.

### **12-8** Schedule of Fees, Charges, and Expenses

- A. The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this ordinance.
- B. The schedule of fees shall be posted in the office of the administrative official, and may be altered or amended only by the City Council.

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- C. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

### **12-9 Board of Adjustment**

- A. Establishment and Procedure:
1. A Board of Adjustment is hereby established to provide relief in situations of hardship or to hear appeals as provided by this section. A property owner may appeal an administrative decision, notice, order, or interpretation of the Building Official if he/she claims that such decision incorrectly interprets or applies the provisions of this ordinance.
  2. Appeals shall be made to the Board of Adjustment through the office of the City Clerk in written form as determined by the Clerk.
- B. Rules and Regulations:
1. The Board of Adjustment shall adopt rules and regulations in accordance with this ordinance and the laws of the State of Nebraska regarding zoning for first-class cities as amended from time to time.
  2. The concurring vote of four out of five members of such board as so composed shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variation in such ordinance.
- C. Proceedings of the Board of Adjustment: The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings and records shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact.

### **12-10 Powers and Duties of the Board of Adjustment**

The Board of Adjustment shall have only the following powers and duties:

- A. Administrative Review: To hear and decide appeals where it is alleged there is error in any order, requirement, decisions or determination made by the Building Official in the enforcement of this ordinance.
- B. Variances - Conditions Governing Applications – Procedures: To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this resolution would result in unnecessary hardship and so that the spirit or the resolution shall be observed and substantial justice done. A variance from the terms of this resolution shall not be granted by the Board of Adjustment unless and until:
1. A written application for a variance is submitted demonstrating:
    - a. That strict application of the zoning ordinance will produce undue hardship.
    - b. That such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.

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- c. That the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
    - d. That granting the variance requested is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.
  2. Notice of public hearing shall be given.
  3. A public hearing shall be held. Any party may appear in person, or by agent or by attorney.
  4. The Board of Adjustment shall make findings that the requirements of Section 12-10 (b)(5) have been met by the applicant for a variance.
  5. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance will make possible the reasonable use of the land, building, or structure.
  6. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this resolution, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- C. Conditions for Grant of Variance:
  1. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this resolution. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this resolution and punishable under Section 12-15 of this ordinance.
  2. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this resolution in the district involved, or any use expressly or by implication prohibited by the terms of this resolution in said district.
  3. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- D. Board has Powers of Administrative Official on Appeals; Reversing Decisions of Administrative Official: In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this resolution, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.
- E. The concurring vote of four members of the Board shall be necessary to reverse any order, requirements, decision, or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

### **12-11 Appeals from the Board of Adjustment**

Any person or persons, or any board, taxpayer, department, board or bureau of the county aggrieved by any decision of the Board of Adjustment may seek review of such decision by the District Court for the County in the manner provided by the laws of the State and particularly by 19-912 R.R.S. 1943 (Reissue 1977), and amendments thereto.

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### **12-12** Duties of Building Official, Board of Adjustment, City Council and Courts on Matters of Appeal

- A. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the administrative official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the administrative official, and that recourse from the decisions of Board of Adjustment shall be to the courts as provided by law.
- B. Under this ordinance, the City Council shall have only the duties:
  - 1. of considering and adopting or rejecting proposed amendments or permits, or the repeal of this ordinance as provided by law, and
  - 2. of establishing a schedule of fees and charges as stated in Section 12-8 of this ordinance.

### **12-13** Severability Clause

Should any section or provision of this resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

### **12-14** Complaints Regarding Violations

Whenever a violation of this resolution occurs, or is allowed to have occurred, any person may file a written complaint. Such complaints stating fully the causes and basis thereof shall be filed with the Building Official. He/she shall record properly such complaint immediately, investigate, and take action thereon as provided by this resolution.

### **12-15** Penalties for Violation

Any person who violates any of the prohibitions or provisions of any article or section of this chapter shall be deemed guilty of a violation. Unless otherwise specified in the particular article or section for which the person stands convicted of violating, the penalty for such violation shall be in any amount not to exceed one hundred (\$100.00) dollars and/or imprisonment for any length of time not to exceed 30 days, at the discretion of the court. Every 24 hours in which a violation of this chapter continues shall be considered a separate and distinct violation (Ref. 16-246 RS Nebraska).

**ARTICLE THIRTEEN**

**WIRELESS COMMUNICATIONS FACILITIES (Enacted by Ordinance No. 1934 4/16/2018)**

**13-1 Purpose**

This Article sets forth additional standards applicable to Wireless Communications Facilities located within the City's zoning jurisdiction. The purpose of this Article is to regulate the development and use of Wireless Communications Facilities in a manner which both promotes the reasonable availability of Wireless Communications Services and preserves the safety, health, and aesthetic character of the Plattsmouth community by, among other things, (A) encouraging the location of Wireless Communications Facilities in areas where the adverse impact on the community is minimal; (B) encouraging collocation to minimize the aggregate adverse impact on the community; (C) minimizing the visual and physical impact of Wireless Communications Facilities, particularly in and around residential zones and historic district overlays; and (D) promoting the efficient modification and upgrade of existing Wireless Communications Facilities to accommodate evolving technologies and increasing demand. It is not the purpose of this Article to, and its provisions shall not be interpreted or applied in a manner which would, (X) prohibit or effectively prohibit the provision of Wireless Communications Services; (Y) unreasonably discriminate among functionally equivalent Wireless Communications Services providers, or (Z) regulate Wireless Communications Facilities on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with the standards established by the FCC.

**13-2 Definitions**

As used in this Article, the following terms shall have the meanings set forth below:

- A. "Antenna" means any system of electrical conductors which transmits, receives, or transmits and receives electromagnetic waves, radio frequencies, or other wireless communications signals used in the provision of Wireless Communications Services.
- B. "Accessory Equipment" means any equipment, other than Transmission Equipment, being used in conjunction with the provision of Wireless Communications Services and located on the same Site as a WCF, including, without limitation, utility equipment, power supplies, generators, batteries, and cables.
- C. "Accessory Structure" means any structure or facility, other than a Tower or Base Station, being used in conjunction with the provision of Wireless Communications Services and located on the same Site as a WCF, including, without limitation, storage sheds and equipment cabinets.
- D. "Applicant" means either (1) a Wireless Communications Provider who submits a Request pursuant to this Article or (2) a Wireless Communications Agent who submits a Request pursuant to this Article.
- E. "Approval Authority" means: (1) the Building Official in the case of an Eligible Facilities Request or a Collocation Request and (2) the City Council, upon the review and recommendation of the Planning Commission, in the case of a New Site Request.
- F. "Base Station" means a structure or equipment at a fixed location which enables FCC-licensed or authorized wireless communications between user equipment and a communications network, including, without limitation, Transmission Equipment mounted to the rooftop of a structure, a water tank, a clock tower, a Utility Support Structure, or a similar structure; provided, "Base Station" shall not include any Tower or any Transmission Equipment associated with such Tower. "Base Station" includes, without limitation, each of the following:
  - 1. Equipment associated with Wireless Communications Services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul;
  - 2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including DAS and Small Cell networks);
  - 3. Any structure other than a Tower that, at the time the relevant Request is filed with the City under this Article, supports or houses Transmission Equipment which has been reviewed and approved under the applicable

## WIRELESS COMMUNICATIONS FACILITIES

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zoning or siting process, or under State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

- G. "Collocation" means the mounting or installation of new Transmission Equipment, and any related Accessory Equipment or Accessory Structures, on (1) an Eligible Support Structure or (2) any other structure for the purpose of transmitting or receiving radio frequency signals for communication purposes.
- H. "Collocation Request" shall have the meaning set forth in Section 13-3.
- I. "Commercial Impracticability" or "Commercially Impracticable" means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which would not have been reasonably anticipated or foreseen and which jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercially impracticable" and shall not render an act or the terms of an agreement "commercially impracticable".
- J. "Distributed Antenna System" or "DAS" means a network of spatially separated Antenna nodes connected to a common source via a transport medium which provides Wireless Communications Service within a geographic area or structure. For the purposes of this Article, a DAS is considered a Wireless Communications Facility.
- K. "Eligible Facilities Request" shall have the meaning set forth in Section 13-3.
- L. "Eligible Support Structure" means a Tower or a Base Station, as applicable, which, at the time an Application is made: (1) has been the subject of a Request reviewed and approved under this Article and is then being used in the provision of Wireless Communications Services or (2) is part of a Permitted Nonconforming Facility. A Tower which is an Eligible Support Structure may also be referred to herein as an "Eligible Tower" and a Base Station which is an Eligible Support Structure may also be referred to herein as an "Eligible Base Station".
- M. "Exempt Facilities" shall mean and include each instance of the following:
1. FCC licensed amateur (ham) radio facilities;
  2. Satellite earth stations, dishes, antennas, or any combination thereof used for private television reception, provided the same does not exceed one (1) meter in diameter;
  3. A government-owned WCF installed upon the declaration of a state of emergency by the federal, state, or local government, or a written determination of public necessity by the City; except that such facility must comply with all federal and state requirements; provided, such a WCF shall be exempt from the provisions of this Article for the duration of, and up to one month after the expiration of, the state of emergency;
  4. A temporary, commercial WCF installed for providing coverage of a special event such as news story or sporting event, subject to application to and approval by the Building Official of a Temporary Use Permit pursuant to Section 6-10; provided, such a WCF shall be exempt from the provisions of this Article for up to one week before and after the duration of the special event; and
  5. Other temporary, commercial Wireless Communications Facilities installed for a period of up to ninety (90) days, subject to the City's discretion; provided that such temporary Wireless Communications Facilities will comply with this Article to the extent directed by the City.
- N. "FCC" means the Federal Communications Commission.
- O. "Height" means, with respect to any Tower, the vertical distance measured from the base of the Tower structure at grade to the highest point of the structure including the Antenna. A lightning rod, not to exceed ten feet (10') in height, shall not be included within Tower height.
- P. "New Site" means a proposed Site which, at the time Applicant's Request is filed, has not been used for the provision of Wireless Communications Services for over 180 days.

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- Q. "New Site Request" shall have the meaning set forth in Section 13-3.
- R. "Permitted Nonconforming Facilities" shall mean a Wireless Communications Facility that lawfully existed on the effective date of this Article 13 and that would constitute a nonconforming structure, nonconforming use, or combination thereof permitted under Article 11.
- S. "Request" shall mean any Eligible Facilities Request, Collocation Request, or New Site Request.
- T. "Site" means (1) with respect to any Tower other than a Tower in the right-of-way, the current boundaries of the leased or owned property surrounding the Tower and any access or utility easements currently related thereto and (2) with respect to a Tower in the right-of-way or a Base Station, the area in immediate proximity to the Support Structure and any Transmission Equipment deployed on the ground.
- U. "Small Cells" means low-powered wireless Transmission Equipment which functions like cells in a mobile wireless network but provide a smaller coverage area than traditional macrocells and which are usually operated-managed and supportive of only a single wireless service provider. For purposes of this Article, a Small Cell is considered a Wireless Communications Facility.
- V. "Stealth Design" means technology that minimizes the visual impact of a WCF by camouflaging, disguising, screening, or blending into the surrounding environment. Examples of stealth design include, but are not limited to, facilities disguised as trees (monopines), flagpoles, utility and light poles, bell towers, clock towers, ball field lights and architecturally-screened, roof-mounted Antennas.
- W. "Substantial Change" means the modification of an Eligible Support Structure (including the modification of any WCF components thereon) which meets any of the following criteria:
1. For Towers other than Towers in the public rights-of-way, an increase in the height of the Tower by more than 10% or by the height of one additional Antenna array with separation from the nearest existing Antenna not to exceed twenty feet, whichever is greater.
  2. For Towers in the public rights-of-way and Base Stations, an increase in the height of the structure by more than 10% or more than ten feet, whichever is greater.
  3. For Towers other than Towers in the public rights-of-way, the addition of Accessory Equipment, an Accessory Structure, or any other appurtenance to the body of the tower that would protrude from the edge of the Tower more than twenty feet, or more than the width of the Tower at the level of the appurtenance, whichever is greater;
  4. For Towers in the public rights-of-way and Base Stations, the addition of Accessory Equipment, an Accessory Structure, or any other appurtenance to the body of the support structure that would protrude from the edge of such structure by more than six feet;
  5. For any Eligible Support Structure, the installation of new equipment cabinets which would bring the total number of equipment cabinets for such support structure greater than either (a) four or (b) the standard number of new equipment cabinets for the technology involved;
  6. For Towers in the public rights-of-way and Base Stations, a change involving either (a) installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the support structure or (b) installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
  7. Any excavation or deployment outside the current Site;
  8. Any change which would defeat the Stealth Design or other concealment elements; or

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9. Any change which fails to comply with conditions associated with the site plan approval or the special use permit approval, as applicable, for the WCF; provided that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in (1) through (6) of this definition.
- X. “Support Structure” shall mean and include each Tower, Base Station, and any other structure to the extent used to support an Antenna or other Transmission Equipment.
- Y. “Technological Impracticability” or “Technologically Impracticable” mean the inability to comply with one or more of the applicable regulations of this Article because such compliance is not feasible due to limitations in the technologies available at the time the Request is submitted.
- Z. “Third Party Collocation” means the mounting or installation of an Applicant’s Transmission Equipment, and any related Accessory Equipment or Accessory Structures, on an Eligible Support Structure, where such Eligible Support Structure is owned by any person other than the Applicant.
- AA. “Tower” means any structure designed or built for the sole or primary purpose of supporting any FCC-licensed or authorized Antennas and their associated facilities.
- BB. “Transmission Equipment” means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supplies. The term includes equipment associated with Wireless Communications Services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- CC. “Utility Support Structure” means any of the following structures to the extent the same are used, proposed to be used, modified, or replaced to support a WCF: utility poles or utility towers supporting electrical, telephone, cable, or other similar facilities; street light standards; or pedestrian light standards.
- DD. “Wireless Communications Agent” means a third party who locates New Sites or provides other acquisition services on behalf of Wireless Communications Providers.
- EE. “Wireless Communications Facility” or “WCF” means a structure, equipment, facility, or location designed for, intended to be used for, or used for the transmission or reception of radio frequency (RF) signals or other wireless communications or other signals for commercial communications purposes. This includes without limitation (1) Antennas and other Transmission Equipment; (2) Towers, Base Stations, and any other Support Structures; and (3) all Accessory Equipment and Accessory Structures.
- FF. “Wireless Communications Provider” means any person who provides either Wireless Communications Services or the Wireless Communications Facilities for providers of Wireless Communications Services.
- GG. “Wireless Communications Services” means, without limitation, all FCC licensed back-haul and other fixed wireless services, broadcast, private, and public safety communication services, and unlicensed wireless services.

### **13-3** Scope

- A. Applicability. Except as otherwise provided in Paragraphs (B) – (D) of this Section, no person shall site, place, construct, operate, maintain, repair, remove, modify, or prepare any Site for the placement or use of, any WCF or component thereof, within the City’s zoning jurisdiction without first having filed with, and received approval from, the City of one or more of the Requests as set forth in this Paragraph A, as applicable. The City’s approval of any Request may be withdrawn upon an Applicant’s failure to comply with the conditions upon which such approval was granted or failure to comply with the terms of the Zoning Ordinance including, without limitation, this Article 13.

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1. *Eligible Facilities Requests.* Eligible Facilities Requests shall be made in accordance with Section 13-5. An Eligible Facilities Request shall mean and be required for any modification of an Eligible Support Structure, where such modification does not Substantially Change the physical dimensions of the Eligible Support Structure and involves: (a) Collocation; (b) removal of Transmission Equipment, Accessory Equipment, or Accessory Structures; or (c) replacement of Transmission Equipment, Accessory Equipment, or Accessory Structures; provided, a Collocation Request shall be required for any Third Party Collocation regardless of whether the proposed Third Party Collocation would Substantially Change the physical dimensions of the Eligible Support Structure.
  2. *Collocation Requests.* Collocation Requests shall be made in accordance with Section 13-6. A Collocation Request shall mean and be required for any request for modification of an Eligible Support Structure which involves (a) a Third Party Collocation; (b) a Collocation, other than a Third Party Collocation, which Substantially Changes the physical dimensions of the Eligible Support Structure; and (c) the removal or the replacement of Transmission Equipment, Accessory Equipment, or Accessory Structures on an Eligible Support Structure where such removal or replacement Substantially Changes the physical dimensions of the Eligible Support Structure.
  3. *New Site Requests.* New Site Requests shall be made in accordance with Section 13-7. A New Site Request shall mean and be required for any proposed WCF which would require either (a) the construction of a new Tower or (b) the placement of a WCF, including any component thereof, on a New Site.
- B. Excluded Facilities. The following Wireless Communications Facilities shall not be subject to the provisions of this Article 13 except to the extent expressly provided otherwise herein:
1. Exempt Facilities; and
  2. Subject to Paragraph (C) below, Permitted Nonconforming Facilities.
- C. Limitation on Exclusion for Permitted Nonconforming Facilities. Permitted Nonconforming Facilities shall be allowed to continue in their nonconforming use subject to the provisions of Article 11; provided, any repair, maintenance, or alteration of a structure or any enlargement of a nonconforming use shall require submission of the appropriate Request in accordance with this Article and, if such Request is approved, the issuance of a Special Use Permit; provided further, that, as a condition of the City's issuance of a Special Use Permit, the Permitted Nonconforming Facility shall be made subject to all provisions of this Article 13 except only such generally applicable setbacks, height restrictions, and similar such provisions which would otherwise prohibit the nonconforming structure(s) or nonconforming use(s).
- D. Excluded Activities. Notwithstanding Paragraph A of this Section, no Request shall be required where the proposed activities with respect to an Eligible Support Structure are limited to either (1) routine maintenance or (2) replacement of any component(s) of the WCF provided such replacement is in the exact location of the component(s) being replaced and is of a construction type similar in height, width, weight, lighting, finish, and color.

### **13-4 No Limitation of City's Proprietary Rights and Interests**

For all Wireless Communications Facilities to be located within the rights-of-way or on City property, the Applicant, prior to submitting any Request, shall have entered into a valid franchise agreement, license, lease, or other such agreement, as applicable, with the City. Nothing in this Article shall be construed in any way to waive or limit the City's proprietary rights over its real and personal property, including, without limitation, any proprietary interest in the rights-of-way and other property owned by the City. If it is determined the City has authority to exert greater rights or impose additional conditions or limitations beyond those set forth in this Article, the City reserves the right to do so, as it determines appropriate or necessary.

### **13-5 Eligible Facilities Requests**

- A. Purpose. This Section 13-5 implements Section 6409(a) of the Spectrum Act (47 U.S.C. Section 1455(a)), as interpreted by the FCC in its Report and Order No. 14-153 and regulated by 47 C.F.R. § 1.40001, which requires a state or local government to approve any Eligible Facilities Request for a modification of an existing WCF which does not result in a Substantial Change to the physical dimensions of such WCF.

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- B. Application. Eligible Facilities Requests shall be submitted to, and reviewed by, the Building Official. Each Eligible Facilities Request shall include the following:
1. *Applicant Information*. The name, address, and contact information of the Applicant;
  2. *Project Information*. The owner, address, and legal description of the Site, and a description of the nature and operating characteristics of the WCF for which the Request is made;
  3. *FCC Registration*. A copy of the Applicant's FCC license or registration;
  4. *Reference to Proprietary Rights Document*. If the Request relates to a WCF located in the public right-of-way or on other City property, a reference to the applicable franchise agreement, license, lease, or other such agreement governing the Applicant's use of the right-of-way or City property;
  5. *Building Permit Application*. A building permit application which conforms to Section 13-8;
  6. *Fee*. The fee applicable to the Request as set forth in the City's Fee Ordinance;
  7. *Representations by Applicant*. A statement by the Applicant acknowledging and agreeing that all representations made by the Applicant and its agents to the City during the application process, whether written or verbal, shall be deemed a part of the Request and may be relied upon in good faith by the City;
  8. *Insurance*. Proof of the Applicant's insurance coverage required by Section 13-12(D);
  9. *Visual Analysis*. A color visual analysis of the WCF, including all Accessory Structures and Accessory Equipment, and the Site which includes to-scale visual simulations that show unobstructed before-and-after views (daytime and clear-weather) from at least four angles, together with a map which shows the location of each view;
  10. *Radio Frequency (RF) Emissions Compliance Report*. A written report prepared, signed, and sealed by a Nebraska-licensed professional engineer which assesses whether the WCF, as modified pursuant to the Request, complies with the RF emissions limits established by the FCC;
  11. *Noise Study*. Either (a) a noise study which demonstrates that the WCF, as modified pursuant to the Request, complies with the intent and goals of this Article and which includes a description of the location for all noise-generating equipment, such as air condition units and back-up generators, and the manufacturer's specifications for all such equipment or (b) the Applicant's certification that the proposed modification will not increase the noise generated by the WCF beyond that reviewed and approved by the City in connection with a prior Request submitted for the WCF;
  12. *Maintenance Plan*. Either (a) a maintenance plan which describes the maintenance required for the WCF as modified pursuant to the Request or (b) the Applicant's certification that the proposed modification will not require any additional maintenance beyond that required in a maintenance plan reviewed and approved by the City in connection with a prior Request submitted for the WCF;
  13. *Certificate of Compliance / Request for Exception to Standards*. Applicant's certification that the WCF, modified as proposed in Applicant's Request, shall comply with each and every general design aesthetic standard set forth in Section 13-11. In the event the Applicant is requesting one or more exception(s) to such standards, Applicant shall note such exceptions in its certification and shall include the information required by Section 13-13 to support each requested exception.
  14. *Supplemental Information*. The Applicant shall submit such supplemental items as may be requested by the City during the review process or as a condition of approval, including without limitation the following:

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- a. Bond. If required by the City pursuant to Section 13-12(E), a bond in the form and amount required by the City;
  - b. Independent RF Technical, Structural Engineering, and Legal Review Escrow. If required by the City pursuant to Section 13-12(F), an escrow deposit in the amount required by the City; and
  - c. Liability of Wireless Communications Provider. If the Request is submitted by a Wireless Communications Agent, the additional certifications, consents, and other such items necessary in the City's reasonable discretion to subject the Wireless Communications Provider for whom the Application is being made to the terms and conditions of this Article and any approval or special use permit granted hereunder.
- C. Review. Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the City shall review such Request, make its final decision to approve or disapprove the Request, and advise the Applicant in writing of its final decision in accordance with this Paragraph C.
1. *Timeframe*. Within 60 days of the date on which an Applicant submits an Eligible Facilities Request, the Building Official shall review and act upon the Request, subject to the tolling provisions below.
  2. *Tolling*. The 60-day review period begins to run when the Request is filed with the City and may be tolled only by mutual agreement between the City and the Applicant or in cases where the Building Official determines that the Request is incomplete.
    - a. To toll the timeframe for incompleteness, the Building Official must provide written notice to the Applicant within 30 days of receipt of the Request, specifically delineating all missing documents or information required in the Request.
    - b. The timeframe for review begins running again when the Applicant makes a supplemental submission in response to the Building Official's notice of incompleteness.
    - c. Following a supplemental submission, the Building Official will notify the Applicant within 10 days if the Applicant's supplemental submission failed to provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this Section.
  3. *Failure to Act*. In the event the Building Official fails to approve or deny a complete Request under this Section 13-5 within the timeframe for review (accounting for any tolling), the Request shall be deemed granted provided the Applicant notifies the City in writing after the review period has expired.
  4. *Resubmission of Mischaracterized Requests*. Applications which are rejected for reclassification must be resubmitted as a new Request and shall be subject to the review and approval timeframe applicable to such Request.

### **13-6 Collocation Requests**

- A. Purpose. This Section 13-6 implements, in part, 47 U.S.C. Section 332(c)(7) of the Federal Communications Act of 1934, as amended, as interpreted by the FCC in its Report and Order No. 14-153.
- B. Application. Collocation Requests shall be submitted to, and reviewed by, the Building Official. Each Collocation Request shall include the following:
  1. All information, documents, and other items required under Sections 13-5(B)(1)-(13) above.
  2. *Site Plan*. A site plan review application which conforms to Section 13-9; and

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3. *Supplemental Information.* The Applicant shall submit the following supplemental items as may be requested by the City during the review process or as a condition of approval, including without limitation the following:
  - a. Bond. If required by the City pursuant to Section 13-12(E), a bond in the form and amount required by the City;
  - b. Independent RF Technical, Structural Engineering, and Legal Review Escrow. If required by the City pursuant to Section 13-12(F), an escrow deposit in the amount required by the City; and
  - c. Liability of Wireless Communications Provider. If the Request is submitted by a Wireless Communications Agent, the additional certifications, consents, and other such items necessary in the City's reasonable discretion to subject the Wireless Communications Provider to the terms and conditions of this Article and any approval or special use permit granted hereunder.
- C. *Review.* Upon receipt of an application for a Collocation Request pursuant to this Section, the Building Official shall review such application, make its final decision to approve or disapprove the Request, and advise the Applicant in writing of its final decision in accordance with this Paragraph C.
  1. *Timeframe.* Within 90 days of the date on which an Applicant submits a Collocation Request, the Building Official shall review and act upon the application, subject to the tolling provisions below.
  2. *Tolling.* The 90-day review period begins to run when the Request is filed and may be tolled only by mutual agreement between the City and the Applicant or in cases where the Building Official determines that the Request is incomplete.
    - a. To toll the timeframe for incompleteness, the Building Official must provide written notice to the Applicant within 30 days of receipt of the Request, specifically delineating all missing documents or information required in the Request.
    - b. The timeframe for review begins running again when the Applicant makes a supplemental submission in response to the Building Official's notice of incompleteness.
    - c. Following a supplemental submission, the Building Official will notify the Applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this Section.
  3. *Failure to Act.* In the event the Building Official fails to approve or deny a complete Request under this Section within the timeframe for review (accounting for any tolling), the Applicant shall be entitled to pursue all remedies available under applicable law.
  4. *Resubmission of Mischaracterized Requests.* Applications which are rejected for reclassification must be resubmitted as a new Request and shall be subject to the review and approval timeframe applicable to such Request.

### **13-7 New Site Requests**

- A. *Purpose.* This Section 13-7 implements, in part, 47 U.S.C. Section 332(c)(7) of the Federal Communications Act of 1934, as amended, as interpreted by the FCC in its Report and Order No. 14-153.
- B. *Application.* New Site Requests shall be submitted to, and preliminary reviewed by, the Building Official. The Building Official will forward completed New Site Requests to the Planning Commission for its review and recommendation to the City Council. Each application for a New Site Request shall include the following:
  1. All information, documents, and other items required under Section 13-5(B)(1)-(9) above.

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2. *Radio Frequency (RF) Emissions Compliance Report.* A written report prepared, signed, and sealed by a Nebraska-licensed professional engineer, which assesses whether the WCF complies with the RF emissions limits established by the FCC.
  3. *Noise Study.* A noise study which demonstrates that the proposed WCF complies with the intent and goals of this Article and which includes a description of the location for all noise-generating equipment, such as air conditioning units and back-up generators, and the manufacturer's specifications for all such equipment.
  4. *Maintenance Plan.* A maintenance plan which describes the Applicant's plan to provide maintenance for the WCF.
  5. *Certificate of Compliance / Request for Exception to Standards.* Applicant's certification that the WCF complies with each and every general design aesthetic standard set forth in Section 13-11. In the event the Applicant is requesting one or more exception(s) to such standards, Applicant shall note such exceptions in its certification and shall include the information required by Section 13-13 to support each requested exception.
  6. *Site Plan.* A site plan review application which conforms to Section 13-9;
  7. *Special Use Permit Application.* A special use permit application which conforms to Section 13-10.
  8. *Supplemental Information.* The Applicant shall submit the following supplemental items as may be requested by the City during the review process or as a condition of approval:
    - a. *Bond.* If required by the City pursuant to Section 13-12(E), a bond in the form and amount required by the City;
    - b. *Independent RF Technical, Structural Engineering, and Legal Review Escrow.* If required by the City pursuant to Section 13-12(F), an escrow deposit in the amount required by the City; and
    - c. *Liability of Wireless Communications Provider.* If the Request is submitted by a Wireless Communications Agent, the additional certifications, consents, and other such items necessary in the City's reasonable discretion to subject the Wireless Communications Provider to the terms and conditions of this Article and any approval or special use permit granted hereunder.
    - d. *Breakpoint Technology.* If the WCF is subject to a setback calculated using breakpoint design technology as permitted in Section 13-11(B) below, a breakpoint technology design certification from a structural engineer licensed in Nebraska.
- C. Review. Upon receipt of a New Site Request, the City shall review such Request, make its final decision to approve or disapprove the Request, and advise the applicant in writing of its final decision in accordance with this Paragraph C.
1. *Timeframe.* Within 150 days of the date on which an Applicant submits a New Site Request, the Approval Authority shall review and act upon the Request, subject to the tolling provisions below.
  2. *Tolling.* The 150-day review period begins to run when the Request is filed and may be tolled only by mutual agreement between the City and the Applicant, or in cases where the Building Official determines that the Request is incomplete.
    - a. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
    - b. The timeframe for review begins running again when the Applicant makes a supplemental submission in response to the City's notice of incompleteness.

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- c. Following a supplemental submission, the City will notify the Applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this Section.
3. *Failure to Act.* In the event the Approval Authority fails to approve or deny a complete Request under this Section within the timeframe for review (accounting for any tolling), the Applicant shall be entitled to pursue all remedies under applicable law.
4. *Resubmission of Mischaracterized Request.* Applications which are rejected for reclassification must be resubmitted as a new Request and shall be subject to the review and timeframe applicable to such Request.

### **13-8 Building Permit Procedure**

All building permit applications submitted pursuant to this Article shall be subject to the provisions of Section 12-7.

### **13-9 Site Plan Approval Procedure**

All site plan approval applications submitted pursuant to this Article shall be subject to the provisions of Section 12-3 and, in addition thereto, shall be subject to the requirements of this Section 13-9.

- A. Supplemental Site Plan Information. In addition to the site plan requirements set forth in Section 12-3(D)(4), each site plan submitted pursuant to this Article shall include:
  1. Location, type, height, and width of the proposed Tower (if any), Transmission Equipment, Accessory Equipment, Accessory Structures, and any other components of the WCF;
  2. The land uses and zoning of the Site;
  3. The setbacks applicable to the Site;
  4. The land use and zoning of properties adjacent to the Site;
  5. The setbacks applicable to (a) property adjacent to the Site and (b) other property within 200 feet of the Site which is either zoned R-1, R-2, R-3 or within the HD overlay district;
  6. Proposed means of pedestrian, vehicular, and utility access to the Site;
  7. A landscape and screening plan; and
  8. Other information the Building Official deems necessary to assess compliance with this Article.
- B. Additional Submittals. All site plan applications submitted pursuant to this Article shall include each of the following:
  1. *Project Summary.* Site Plan applications for Third Party Collocations and all New Sites shall include a clear and complete written statement which describes the purpose of the proposed WCF and demonstrates need for the proposed WCF at the Site. Such statement shall specifically include: (a) a description of the technical objective to be achieved; (b) a to-scale map that identifies the proposed Site and the targeted service area to be benefited by the proposed WCF; (c) full-color signal propagation maps with objective units of signal strength measurement which show the Applicant's current service coverage levels from all adjacent Sites without the proposed Site, predicted service coverage levels from all adjacent Sites with the proposed Site, and predicted service coverage levels from the proposed Site without all adjacent Sites; (d) identification of the entities providing the backhaul network for the WCF; and (e) copies of the specifications and manufacturer's recommended installation for the Tower, if any, and all Transmission Equipment. These materials shall be reviewed and signed by a Nebraska-licensed professional engineer.

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2. *Inventory of Existing Sites.* Applicants for Third Party Collocation Requests and New Site Requests shall include with their Site Plan application an inventory of the Applicant's existing Sites within the City's zoning jurisdiction.
3. *Collocation Analysis.* Applicants for New Site Requests shall include with their Site Plan application a statement which demonstrates, to the satisfaction of the Approval Authority, that collocation of the proposed WCF on an Eligible Support Structure is not feasible based on one or more of the following conditions:
  - a. No existing Towers or Base Stations are located within the Applicant's projected or planned service area for the proposed WCF; or
  - b. Collocation of the proposed WCF on the existing Towers or Base Stations located within the Applicant's projected or planned service area is not feasible due to (i) Commercial Impracticability; (ii) Technological Impracticability; (iii) technological or structural incompatibility between the proposed WCF and such existing Towers and Base Stations; (v) the inability of the Applicant and the owner of such existing Towers or Base Stations to reach an agreement regarding collocation despite Applicant's reasonable and good faith efforts.
4. *Siting Preferences.*
  - a. *Priorities.* Applicants for Third Party Collocation Requests and New Site Requests shall propose Sites located in accordance with the following preferences, as applicable, ordered from most preferred to least preferred:
    - i. Property which is (a) City-owned or controlled and (b) more than 200 feet from the nearest (1) R-1, R-2, or R-3 zoning district or (2) HD overlay zoning district;
    - ii. Property located (a) in GI or HI zoning districts and (b) more than 200 feet from the nearest (1) R-1, R-2, or R-3 zoning district or (2) HD overlay zoning district;
    - iii. Property located (a) in LC, GC, UC, and CBD zoning districts and (b) more than 200 feet from the nearest (1) R-1, R-2, or R-3 zoning district or (2) HD overlay zoning district;
    - iv. Property which is (a) City-owned or controlled and (b) within 200 feet from the nearest (1) R-1, R-2, or R-3 zoning district or (2) HD overlay zoning district;
    - v. Property located (a) in GI or HI zoning districts and (b) within 200 feet from the nearest (1) R-1, R-2, or R-3 zoning district or (2) HD overlay zoning district;
    - vi. Property located (a) in LC, GC, UC, and CBD zoning districts and (b) within 200 feet from the nearest (1) R-1, R-2, or R-3 zoning district or (2) HD overlay zoning district;
    - vii. Property which is (a) City-owned or controlled and (b) in an R-1, R-2, or R-3 zoning district;
    - viii. Other property in an R-1, R-2, or R-3 zoning district;
    - ix. Property in an HD overlay zoning district and in the public right-of-way;
    - x. Property in the HD overlay zoning district on which a historic building is not located;
    - xi. All other property on which a WCF may be located.
  - b. *Alternative Siting Analysis.* Applicants for Third Party Collocation Requests and New Site Requests shall include in their Site Plans applications the characterization of the proposed Site in relation to the location priorities listed in subparagraph (a) above. If the proposed Site is not the most-preferred location, the Applicant shall include with its Application an alternative siting analysis which demonstrates to the satisfaction of the Approval Authority the applicability of one or more of the following conditions:
    - i. The unavailability of locations with a higher priority; or
    - ii. Available locations of higher priority are not feasible locations due to Technological Impracticability or Commercial Impracticability; or

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- iii. Available locations of higher priority are feasible locations but, on balance after due consideration of the general design and aesthetic standards of Section 13-11 and the purposes of this Article, a WCF at the proposed location will have less of an adverse visual and physical impact on the community than the available locations of higher priority.
- C. Additional Criteria for Review. In addition to the criteria set forth in Table 12.1 of Article 12, the Building Official shall review each site plan application submitted pursuant to this Article based on conformance with the following additional criteria:
1. Nature of uses of the Site and adjacent and nearby properties;
  2. Proximity of the Site to R-1, R-2, and R-3 districts and to the HD overlay district;
  3. Surrounding topography;
  4. Surrounding tree coverage and foliage;
  5. Design of the WCF, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
  6. Proposed ingress and egress.

### **13-10 Special Use Permit Procedure**

All special use permit applications submitted pursuant to this Article shall be subject to the provisions of Section 12-4 and, in addition thereto, shall be subject to the requirements of this Section. A special use permit application shall include the Applicant's site plan application prepared in accordance with Section 13-9 above, and the Applicant shall submit the same for review and approval by the Planning Commission in accordance with Section 12-4 of Article 12. The Planning Commission shall review the Request using the procedure and criteria set forth in Section 12-4 of Article 12 and the supplemental criteria provided in Section 13-9.

### **13-11 General Design and Aesthetic Standards**

All Wireless Communications Facilities within the City's zoning jurisdiction shall conform to the general design and aesthetic standards set forth in this Section.

- A. Height. All New Sites and modifications of Eligible Support Structures shall be subject to the height restrictions set forth in Tables 4.2 – 4.14; provided, the Approval Authority may approve height extensions not to exceed eight feet above the applicable height restriction when the proposed WCF is (1) mounted on the rooftop of an existing building; (2) completely concealed; and (3) architecturally integrated into the existing building; provided further that this exception does not apply to any Towers or Utility Support Structures.
- B. Setback Restrictions. Except for Wireless Communications Facilities located in the rights-of-way, all Wireless Communications Facilities shall be subject to the setback restrictions set forth in Tables 4.2 – 4.14 and the setback adjustments set forth in Section 7-2; provided, for Towers located on or within 200 feet of property either (1) zoned R-1, R-2, or R-3 or (2) within the HD overlay district:
1. If the Tower is constructed with breakpoint design technology, the Tower shall be set back the greater of (a) the distance set forth in the applicable table and (b) the distance equal to one hundred ten percent (110%) of the distance from the top of the structure to the breakpoint level of the structure; and
  2. If the Tower is constructed with breakpoint design technology, the Tower shall be setback the greater of (a) the distance set forth in the applicable table and (b) one foot (1') for every foot of Tower Height.
- C. Landscaping and Screening. All Wireless Communications Facilities shall be subject to the landscaping and screening regulations set forth in Article 8.

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- D. Historic District. Wireless Communications Facilities located in an HD overlay district shall comply with the provisions of Section 5-6 and the supplemental site development regulations and performance standards set forth in the ordinance adopting such HD overlay district. In addition, no WCF, or any component therefor, shall be located on the façade of any building in an HD overlay district.
- E. Accessory Uses. Accessory Structures and Accessory Equipment shall be limited to such structures and equipment that are necessary for the operation of the Transmission Equipment, and the following shall not be considered Accessory Structures or Accessory Equipment: broadcast studios, offices, vehicles, equipment storage, and other similar accessories or equipment.
- F. Lighting. A WCF may only include such minimum lighting as is necessary to satisfy any applicable Federal Aviation Administration requirements or other federal requirements. Security lighting for Accessory Structures and Accessory Equipment shall be limited to the minimum extent necessary to achieve Applicant's security purposes and shall be down-shielded to keep light within the boundaries of the Site.
- G. Signs. A WCF may bear only such minimum signage as required by state or federal law or as expressly permitted or required by the City.
- H. Security. All Wireless Communications Facilities shall be located, fenced, or otherwise secured in a manner which prevents unauthorized access.
- I. Utilities. All utilities serving a WCF shall be installed underground to the maximum extent possible.
- J. Visual Impact. All Wireless Communications Facilities shall be designed (1) to utilize the smallest footprint possible; (2) to minimize its overall height, mass, and size; (3) to be screened from public view to the greatest extent feasible; (4) to be architecturally compatible with the Site and surrounding environment; and (5) to incorporate Stealth Design and similar concealment technology as appropriate for the proposed WCF and Site.
- K. Geographical Restrictions on New Sites. No WCF shall be constructed as a New Site which is within one-half mile of another Site.
- L. Design to Accommodate Collocations. Each Applicant for a New Site shall examine the feasibility of designing the proposed WCF at the Site to accommodate the future Collocation of at least one additional commercial application and the proposed WCF shall be structurally designed to accommodate Collocation of such additional application.
- M. Special Use Permit Provisions for Third Party Collocation Requests. A site plan application submitted in connection with a Third Party Collocation Request shall not be approved unless at the time the application is made there is located on the Site either (1) a Permitted Nonconforming Facility or (2) a WCF for which a Special Use Permit has been issued by the City and such permit is in good standing. The City's revocation of any Special Use Permit for a WCF shall operate as the revocation of any Third Party Collocation Request granted thereunder.
- N. WCFs Mounted on Towers. The following standards shall apply to all Wireless Communications Facilities mounted on Towers:
1. *Tower-mounted Equipment.* All Tower-mounted Transmission Equipment and Accessory Equipment shall be mounted as close to the vertical support structure as possible to reduce the Tower's visible profile.
  2. *Ground-mounted Equipment; Accessory Structures.* All ground-mounted Transmission Equipment and Accessory Equipment shall be concealed with opaque fences or other enclosures necessary to blend such equipment into the surrounding environment. All Accessory Structures shall be designed to blend into the surrounding environment.
- O. WCFs Mounted on Buildings. The following standards shall apply to all Wireless Communications Facilities mounted on buildings:

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1. *General Design Preference.* Applicants for New Site Requests should propose new building-mounted WCFs according to the following preferences: (a) completely concealed and architecturally integrated façade or rooftop mounted Base Stations with no visible impacts from any publicly accessible areas at ground level and (b) completely concealed new structures or appurtenances which are designed to mimic the Support Structure's original architecture and proportions.
  2. *Rooftop-mounted Transmission Equipment.* Unscreened rooftop-mounted Transmission Equipment shall be avoided to the greatest extent feasible and any unscreened equipment shall be setback from the roofline and limited in height so that it is effectively concealed.
  3. *Ground-mounted Equipment.* Outdoor ground-mounted Transmission Equipment, Accessory Equipment, and Accessory Structures shall be avoided to the greatest extent feasible and any such equipment or structures mounted on the ground shall be concealed with fencing, landscaping, or similar features which mimic adjacent structures and the surrounding environment.
- P. WCFs in the Rights-of-Way. The following standards shall apply to all Wireless Communications Facilities mounted in the rights-of-way:
1. *Concealment.* All WCFs shall be concealed to the greatest extent feasible with design elements and techniques which blend with the underlying Support Structure, adjacent structures, and surrounding environment.
  2. *Undergrounded Equipment.* All Transmission Equipment (other than Antennas) and Accessory Equipment shall be installed underground to the greatest extent feasible.
  3. *Grounded-mounted Equipment; Accessory Structures.* All ground-mounted Transmission Equipment and Accessory Equipment all Accessory Structures shall be located as close to the base of the Support Structure as possible; shall be located so as to not obstruct pedestrian or vehicular traffic; and shall be concealed with fencing, landscaping, or similar features which mimic adjacent structures and the surrounding environment.
  4. *Pole-mounted Equipment.* All Transmission Equipment and Accessory Equipment mounted on Utility Support Structures shall be installed as close to the Support Structure as possible to minimize impacts to the visual profile; painted flat, non-reflective colors to match the Support Structure; placed behind existing signs; and oriented away from prominent views.

### **13-12** Additional Regulations

All Wireless Communications Facilities within the City's zoning jurisdiction shall conform to the additional regulations set forth in this Section, and the City's approval of any Request shall be conditioned upon the Applicant's continued compliance with these regulations.

- A. Compliance. All Wireless Communications Facilities shall be constructed, operated, maintained, repaired, and removed in strict compliance with all applicable provisions of the Zoning Ordinance, any approval or special use permit issued under this Article, and all other applicable federal, state, local laws. Any failure by the City to enforce compliance with any applicable laws shall not relieve any Applicant of its obligations under the Zoning Ordinance, any approval or special use permit issued under this Article, or any other applicable law or regulation.
- B. Indemnification. The Applicant shall defend, indemnify, and hold harmless the City, its agents, officers, officials and employees (1) from any and all damages, liabilities, injuries, losses, attorneys' fees, costs, and expenses and from any and all claims, demands, lawsuits, writs of mandamus and other actions or proceedings brought against the City or its agents, officers, officials, or employees to challenge, attack, seek to modify, set aside, void, or annul the City's approval of the Applicant's Request, and (2) from any and all damages, liabilities, injuries, losses, attorneys' fees, costs, and expenses and any and all claims, demands, lawsuits or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the Applicant and, if applicable, the private property owner on which the Tower or Base Station is installed or any of each one's agents, employees, licensees, contractors, subcontractors or independent contractors. In the event

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the City becomes aware of any such actions or claims, the City shall promptly notify the Applicant and such property owner, if any, and shall reasonably cooperate in the defense. It is expressly agreed that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the Applicant and the property owner, as applicable, shall reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense including, but not limited to, attorneys' fees.

- C. Agreement to Negotiate Collocations. Each Applicant of any approved New Site Request shall negotiate in good faith for the shared use of the proposed Tower or Base Station by other providers of Wireless Communications Services in the future and shall respond within 60 days to a request for information from a potential shared-use Applicant.
- D. Insurance. No person shall own or operate a WCF within the City of Plattsmouth or its extraterritorial jurisdiction without having secured and at all times maintained in place insurance coverage which conforms to the following:
1. Comprehensive general liability, automobile, workers compensation, employers liability and umbrella insurance to the satisfaction of the City to protect the City;
  2. For a WCF in the public right-of-way or on City property, the commercial general liability insurance policy shall specifically include the City and its officers, elected and appointed officials, employees, and agents as additional insureds;
  3. All insurance policies (a) shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A and (b) shall contain an endorsement obligating the insurance company to furnish the City Clerk with at least 30 days prior written notice in advance of the cancellation of the insurance; and
  4. Such policies shall not be modified or cancelled without thirty (30) days prior written notice being given to the City and the insurance must be replaced by the owner of the WCF up to its original amount(s).
- E. Bonds. Each Applicant shall be required to execute and file with the City a bond, or other form of security, at Applicant's cost and expense, which is acceptable to the City as to the type of security and the form and manner of execution, in such amount as is sufficient, in the City's sole and absolute discretion, to assure the faithful performance of the terms and conditions of this Article and of any site approval or special use permit granted to Applicant by the City pursuant to this Article. The full amount of the bond or security shall remain in full force and effect until any necessary Site restoration is completed to restore the Site to a condition comparable to that which existed prior to the City's approval of the Request. Notwithstanding the foregoing, the City may waive the requirement for a performance guaranty for a WCF for which a performance guarantee was provided in connection with a prior Request and such performance guarantee remains in full force.
- F. Independent RF Technical, Structural Engineering, and Legal Review. Although the City intends for City staff to review Requests to the extent feasible, the City may retain the services of independent RF, Structural Engineer, and/or legal experts of its choice to provide technical, structural engineering, and legal evaluation of Requests as appropriate. The Applicant shall pay the cost for any such expert fees through a deposit, estimated by the City, paid within ten (10) days of the City's request. When the City requests such payment, the Applicant's Request shall be deemed incomplete for purposes of application processing timelines until the deposit is received. In the event that such costs and fees do not exceed the deposit amount, the City shall refund any unused portion within thirty (30) days after the Request is finally approved, or, if no final approval is granted, within thirty (30) days after the City notifies Applicant that final approval of the Request will not be granted. If the costs and fees exceed the deposit amount, then the Applicant shall pay the difference to the City prior to final approval of the Request.
- G. Abandoned and Discontinued WCFs.
1. To promote the public health, safety, and welfare, the Building Official may declare a WCF abandoned or discontinued when (a) the Applicant notifies the Building Official that it abandoned or discontinued the Applicant's use of the WCF; (b) the Applicant fails to respond within 30 days to a written notice sent by the Building Official to the Applicant which notice states the basis for the Building Official's determination that the WCF has been abandoned or discontinued for a period of 90 or more days; or (c) the Applicant fails to respond

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within 30 days to a written notice sent by the Building Official to the Applicant which notices states that approval of the Applicant's Request or special use permit has been withdrawn due Applicant's violation of the Zoning Ordinance, the terms of approval of the Request or special use permit, or any other applicable law or regulation.

2. After the Building Official declares a WCF abandoned or discontinued, the Applicant shall have 90 days from the date of the declaration (or such longer time as the Building Official may approve in writing as reasonably necessary) to: (a) reactivate the use of the abandoned or discontinued WCF consistent with the provisions of this Article; (b) transfer its rights to use the WCF, subject to the provisions of this Article, and all conditions of approval, to another person or entity that immediately commences use of the WCF; or (c) remove the WCF and restore the Site to a condition consistent with the then-existing surrounding area.
3. If the Applicant fails to act as required in subparagraph (2) above within the prescribed time period, the City Council, at a duly noticed meeting of the Council, may deem the WCF abandoned and cause the removal of the abandoned WCF, restoration of the Site to a condition compliant with all applicable codes and consistent with the then-existing surrounding area, and repair of any and all damages that occurred in connection with such removal and restoration work. The City may, but shall not be obligated to, store the removed WCF or any part thereof, and may use, sell, or otherwise dispose of it in any manner the City deems appropriate. The Applicant, its successor-in-interest if any, and, if on private property, the real property owner shall be jointly liable for all costs and attorneys' fees incurred by the City in connection with its removal, restoration, repair and storage, and shall promptly reimburse the City upon receipt of a written demand, including any interest on the balance owing at the maximum lawful rate. The City may, but shall not be obligated to, use any financial security required in connection with the granting of the Request to recover its costs and attorneys' fees.

### **13-13** Exceptions to Standards

Except as otherwise provided in this Article, no WCF shall be used or developed contrary to any applicable development standard unless an exception is authorized herein and has been granted pursuant to this Section.

- A. Approval Authority. The Building Official shall be the approval authority for all exceptions requested in connection with Eligible Facilities Requests and Collocation Requests. The City Council, upon recommendation by the Planning Commission, shall be the approval authority for all exceptions requested in connection with New Site Requests.
- B. Submittal Requirements. An application for an exception under this Section shall include:
  1. A written statement which (a) identifies the standard for which an exception is requested; (b) describes the proposed manner in which the Request deviates from the standard; and (c) provides a thorough explanation of the Technical Impracticability, Commercial Impracticability, or other justification demonstrating the necessity of the exception requested.
  2. A site plan which:
    - a. Describes the proposed WCF's design and dimensions, as it would appear with and without the exception;
    - b. Includes elevations showing all components of the WCF, as it would appear with and without the exception; and
    - c. Includes color simulations of the WCF after construction demonstrating compatibility with the surrounding environment, as it would appear with and without the exception.
- C. Criteria. The Approval Authority will consider the following in determining whether to grant an exception requested hereunder:
  1. Whether the exception is consistent with the purpose of the standard for which the exception is sought;

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2. Whether the alternative proposed as an exception to the standard otherwise minimizes the visual impact to the Site and surrounding area to the greatest extent feasible; and
3. Whether the Applicant has sufficiently demonstrated that:
  - a. A significant gap in the coverage, capacity, or technologies of the service network exists such that users are regularly unable to connect to the service network, or are regularly unable to maintain a connection, or are unable to achieve reliable wireless coverage within a building;
  - b. The gap can only be filled through the requested exception; and
  - c. The exception is narrowly tailored to fill such gap so that the WCF otherwise conforms to this Article's standards to the greatest extent possible.