

# ORDINANCE RECORD

No. 728-REFIELD & COMPANY INC., OMAHA

## ORDINANCE NO. 1433

AN ORDINANCE TO AMEND ARTICLES 2, 4, 5, 6, 7, AND 9 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL ARTICLES 2, 4, 5, 6, 7, AND 9 OF ORDINANCE NO. 848 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

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

SECTION 1. Amendment of Article 2. Article 2 of the Ordinance No. 848 is hereby amended to read as follows:

### ARTICLE 2: DEFINITIONS

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

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

#### **Section 2.02 – Definitions: A**

**ABANDONMENT** shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.

**ABUT, ABUTTING** shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley.

**ACCESS OR ACCESS WAY** shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Regulation.

**ACCESSORY BUILDING** (see Building, accessory)

**ACCESSORY STRUCTURE** shall mean a detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.

**ACCESSORY USE** shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.

**ADJACENT** shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent".

**ADULT BOOKSTORE** shall mean any premises from which minors are excluded and in which the retail sale of books, magazines, newspapers, movie films, devices, slides, or other photographic or written reproductions is conducted as a principal use of the premises, if such services are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas." (Ordinance No. 1083, 2-17-09)

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

**ADULT DAY CARE SERVICES** shall mean non-resident day care, regulated as required by the State of Nebraska, for four or more unrelated adults. (Ordinance No. 1328, 9-18-18)

**ADULT ENTERTAINMENT ESTABLISHMENT** shall mean any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing,

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discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but without limitation, adult bookstores, adult motion picture theaters, *adult saunas*, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, *adult internet industries*, and *adult massage parlor / health club*. (*Ordinance No. 1083, 2-17-09*)

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

**ADULT INTERNET INDUSTRIES** shall mean any business within an enclosed building or outdoors that is producing materials for distribution on the Internet, including live video streaming, tape delayed video broadcasts, live simulcasting, still photographs, audio broadcasts, animated video or hard copy, wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." Said uses are intended for viewing by other parties while on-line and for a specified charge. (*Ordinance No. 891, 2-04-03*); (*Ordinance No. 1083, 2-17-09*)

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

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

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

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

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

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

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

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

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

**AIRPORT** shall mean any area which is used or is intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or are intended to be used for airport buildings or facilities, including open spaces, taxiways, and tie-down areas.

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

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

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

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

**AMUSEMENT, COMMERCIAL INDOOR** shall mean a building or a part of a building containing uses that provide commercial amusement indoors, not including uses defined in Adult Establishment, including, but not limited to movie theaters, bowling alleys, billiards halls, skating rinks, video arcades, rock climbing gyms, dance halls, indoor miniature golf courses, and go-kart tracks.

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

**ANIMAL SPECIALTY SERVICES** shall refer to establishments primarily engaged in pet grooming, clipping, bathing, daycare, training courses, obedience classes, and similar services. Does not include veterinary services, but may include overnight boarding of animals, excluding exotic animals and farm animals such as horses, cattle, goats, sheep and poultry. (*Ordinance No. 1251, 6-16-15*)

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

**ANTIQUE STORE** shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, belonging to the past, at least 30 years old. (*Ordinance No. 1083, 2-17-09*)

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

**APPAREL SHOP** shall mean retail stores where clothing is sold, such as department stores, shoe stores, and dress, hosiery, and millinery shops. (*Ordinance No. 1083, 2-17-09*)

**APPLIANCE STORE** shall refer to retail shops selling equipment used for domestic functions. A store may include heavy appliances such as refrigerators, washers, dryers, ovens, dishwashers, or other similar domestic equipment. The store may also include smaller appliances such as televisions, computers, radios, microwaves, and other similar domestic equipment. (*Ordinance No. 1083, 2-17-09*)

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

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

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

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

**ARCHITECTURAL CHARACTER** (see Architectural Concept)

**ARCHITECTURAL CONCEPT** shall mean the basic aesthetic idea of a building, or group of buildings or structures, including the site and landscape development. (*Ordinance No. 1083, 2-17-09*)

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

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

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

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

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

**ART GALLERY** shall mean an establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art. This clarification does not include libraries, museums, or non-commercial art galleries. (*Ordinance No. 1083, 2-17-09*)

**ARTIST LIVE-WORK SPACE** shall mean dwelling unit that is also used for work purposes, provided that the 'work' component is restricted to the uses of artist's workshop, studio, or other similar uses and is

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*located on the street level and constructed as separate units under a condominium regime or as a single unit. The 'live' component may be located on the street level (behind the work component) or any other level of the building. Live-work unit is distinguished from a home occupation otherwise defined by this ordinance in that the work use is not required to be incidental to the dwelling unit, non-resident employees may be present on the premises and customers may be served on site.*

**ARTIST STUDIO SPACE** shall mean a space for the creation, manufacture, or assemblage of visual art, including two- or three-dimensional works of fine art or craft for the purpose of sale, display, commission, or collection, not including uses defined in Adult Entertainment Establishment and not including a dwelling unit.

**ASSISTED LIVING FACILITIES** shall mean a type of long-term care facility for elderly or disabled people needing assistance with daily activities such as eating, bathing, dressing, laundry, housekeeping, and medicating. These facilities typically have a central cafeteria and nursing staff on call.

**ATTACHED** shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from a permanent foundation or structural change in such structure in order to relocate it to another site. (*Ordinance No. 1083, 2-17-09*)

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

**AUTOMATED TELLER MACHINE (ATM)** shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution. (*Ordinance No. 1083, 2-17-09*)

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

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

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

## Section 2.03 - Definitions: B

**BAKERY SHOP** shall mean an establishment primarily engaged in the retail sale of baked products. The products may be prepared either on or off site. A bakery shall be considered a general retail use. (*Ordinance No. 1083, 2-17-09*)

**BANK** shall mean a freestanding building or secondary use within a building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds. (*Ordinance No. 1083, 2-17-09*)

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

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

**BEAUTY SHOP** shall mean any establishment where cosmetology services are provided including hair care, nail care, and skin care on a regular basis for compensation. (*Ordinance No. 1083, 2-17-09*)

**BED and BREAKFAST** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator shall live on the premises. (*Ordinance No. 1083, 2-17-09*)

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

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

**BILLBOARD** (see Sign, Billboard)

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

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

**BOARDING HOUSE** shall mean a building containing a single dwelling unit and provisions for not more than five (5) guests, where lodging is provided with or without meals for compensation. (Also, see Bed and Breakfast) (*Ordinance No. 1083, 2-17-09*)

**BOOK STORE** shall mean a retail establishment that, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software, or any other printed or electronically conveyed information or media, excluding any uses defined as "adult entertainment establishments." (*Ordinance No. 1083, 2-17-09*)

**BOWLING CENTER** shall mean an establishment that devotes more than 50 percent of its gross floor area to bowling lanes, equipment, and playing area. Accessory uses such as the retail sale of snacks, the retail sale of beverages, and a video game arcade are customary. (*Ordinance No. 1083, 2-17-09*)

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

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

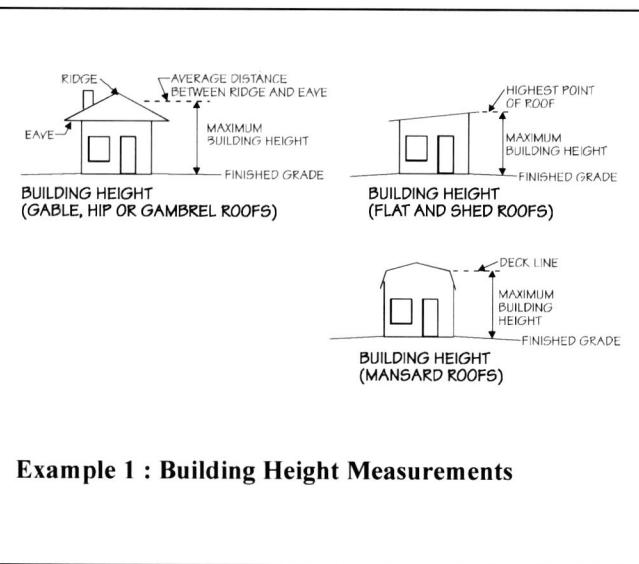
**BUFFER** shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. (Also, see Screening)

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

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

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

**BUILDING HEIGHT** shall mean the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance at the exterior wall of the building. (Also, see Height) (*Ordinance No. 1083, 2-17-09*)



Example 1 : Building Height Measurements

**BUILDING INSPECTOR** shall mean the *Chief Building Official* of the City of La Vista, Nebraska. (*Ordinance No. 1083, 2-17-09*)

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM** shall mean a solar photovoltaic system that is constructed as an integral part of a principal or accessory building or structure and where the building-integrated system features maintain a uniform profile or surface of vertical walls, window openings, and roofing. Such a system is used in lieu of a separate mechanical device, replacing or substituting for an architectural or structural component of the building or structure that appends or interrupts the uniform

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surfaces of walls, window openings and roofing. A building-integrated system may occur within vertical facades, replacing view glass, spandrel glass or other facade material; into semitransparent skylight systems; into roofing systems, replacing traditional roofing materials; or other building or structure envelope systems. (*Ordinance No. 1389, 3-3-2020*)

**BUILDING-MOUNTED SECS** shall mean a solar photovoltaic system attached to any part or type of roof on a building or structure that has a permit on file with the City of La Vista and that is either the principal structure or an accessory structure on a recorded lot. This system also includes any solar-based architectural elements. (*Ordinance No. 1389, 3-3-2020*)

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

**BUSINESS OR TRADE SCHOOL** (see *Special or Vocational Training Facilities*) (*Ordinance No. 1083, 2-17-09*)

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

## **Section 2.04 - Definitions: C**

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

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

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

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

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

**CHANGEABLE COPY** shall refer to a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without, altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance. (*Ordinance No. 1083, 2-17-09*)

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

**CHARITABLE ORGANIZATION or CLUB** shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals. (*Ordinance No. 1083, 2-17-09*)

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

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

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

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

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

**COLLEGE AND UNIVERSITY** shall mean an educational institution offering advanced instruction in any academic field beyond the secondary level, including trade schools or business colleges. (*Ordinance No. 1168, 3-6-12*)

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

**COMMERCIAL MESSAGE** shall mean any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity. (*Ordinance No. 1083, 2-17-09*)

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

**COMMUNICATION SERVICES** shall mean establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services or wireless communication towers. Typical uses include television studios, communication service centers, internet service offices, or film and sound recording facilities. (*Ordinance No. 1083, 2-17-09*)

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

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

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

**CONCRETE BATCH PLANT** shall mean an industrial facility used for the production of concrete, used in building or construction, and includes facilities for the administration or management of the business. (*Ordinance No. 1329, 9-18-18*)

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

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

**CONDOMINIUM** shall mean a structure or structures proposed for construction comprising a project in which an undivided interest in the land is coupled with the right to the exclusive occupancy of a designated residential space and/or spaces and accompanying facilities.

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

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

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

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

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**CONSTRUCTION** shall mean on-site erection, fabrication, installation, alteration, demolition, or removal of any structure, facility, or addition thereto, including all related activities, but not restricted to, clearing of land, earth moving, blasting and landscaping. *(Ordinance No. 1083, 2-17-09)*

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

**CONTINUING CARE RETIREMENT COMMUNITY** shall offer services and housing packages that allow access to senior independent living, assisted living, and nursing care facilities. Seniors who are independent may live in a single-family home, apartment or condominium within the Continuing Care Retirement Community. When members of the community begin to need help with activities of daily living (e.g. bathing, dressing, eating, etc.), they may be transferred to an assisted living or nursing care facility on the same site.

**CONVENIENCE STORE** shall mean a one-story, retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. *Fuel sales shall be limited to automobiles, pick-up trucks, boats, recreational vehicles, motorcycles, and small motorized equipment.* *(Ordinance No. 1083, 2-17-09)*

## Section 2.05 - Definitions: D

**DATA CENTER** shall mean a centralized repository for the storage, management, processing, conversion, and dissemination of data and information which may also house equipment that supports communications network infrastructure without actually being part of the physical network. A data center may house equipment that includes, but is not limited to, computers, servers, data storage devices, and related equipment. A data center may include, but shall not be limited to, accessory uses that include offices for data center staff and accessory structures that include water storage tanks, cooling towers, network systems, fuel storage tanks, guardhouses and security offices, storage, chillers, electrical transformers, and engine generators. Typical uses include data processing centers and server farms.

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

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

**DEVELOPMENT** shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required. *Also, shall mean any material change in the use or appearance of any structure or in the land itself; the division of land into separate lots; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any activity that alters a river, stream, lake, pond, woodland, wetland, endangered species habitat, aquifer or other resource area.* *(Ordinance No. 1083, 2-17-09)*

**DOG KENNEL** (See Kennel)

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

**DRAINAGE** shall mean the removal of surface water or groundwater from land by drains, grading, or other means that include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply, and the prevention or alleviation of flooding. *(Ordinance No. 1083, 2-17-09)*

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

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

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

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

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

# ORDINANCE RECORD

No. 728-REFIELD & COMPANY INC., OMAHA

Permanent Foundation: Base on which building rests to be constructed from either poured concrete or laid masonry block or brick placed on a footing located below ground level to a point below the frost line. *(Ordinance No. 1083, 2-17-09)*

**DWELLING, MULTIPLE FAMILY** shall mean a building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other and having separate kitchen and toilet facilities for each family. *(Ordinance No. 1083, 2-17-09)*

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

- The home shall have no less than nine hundred (900) square feet of floor area, above grade, for single story construction;
- The home shall have no less than an eighteen (18) foot exterior width;
- The roof shall be pitched with a minimum vertical rise of two and one-half (2 1/2) inches for each twelve (12) inches of horizontal run;
- The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction;
- The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock;
- The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed;
- The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district; and
- Permanent foundation: continuous perimeter base on which building rests to be constructed from either poured concrete or laid masonry block or brick *placed on a footing located below ground level to a point below the frost line.* *(Ordinance No. 1083, 2-17-09)*

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

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

## **Section 2.06 - Definitions: E**

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

**EDUCATIONAL FACILITY** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, commercial, or private trade schools are not included in this definition. *(Ordinance No. 1083, 2-17-09)*

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

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

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

**ENTERTAINMENT VENUE** shall mean any activity that includes, but is not limited to, a theatrical performance, live music performance, live or "virtual" disc jockey, or live or "virtual" master of ceremonies, held indoors or outdoors to which members of the public are invited with or without charge. *(Ordinance No. 1219, 7-15-14)*

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

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

# ORDINANCE RECORD

No. 728—REFFIELD & COMPANY INC., OMAHA

**EXERCISE, FITNESS and TANNING SPA** shall mean an establishment that provides exercise facilities for the purposes of running, jogging, aerobics, weight lifting, court sports, and/or swimming, as well as locker rooms, showers, massage rooms, tanning beds, hot tubs, saunas or other related accessory uses; however, excluding any uses defined as "adult entertainment establishments". (*Ordinance No. 1083, 2-17-09*)

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

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

## **Section 2.07 - Definitions: F**

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

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

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

*Family does not include any society, club, fraternity, sorority, association, lodge, organization, group of students, or other individuals where the common living arrangement is temporary or seasonal. Also, the term does not include any group of individuals who are in a group living arrangement as a result of criminal offenses.* (*Ordinance No. 1083, 2-17-09*)

**FARM** an area containing at least twenty (20) acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain; storing of such products; and/or raising farm animals. The term farming includes the operating of such area for two or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals. (*Ordinance No. 1083, 2-17-09*)

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

**FENCE, OPEN** shall mean a fence, including gates, which has fifty percent (50%) or more of the surface area in open spaces which affords direct views through the fence. (*Ordinance No. 1083, 2-17-09*)

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

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

**FESTIVAL** shall mean the sale of ethnic specialty, regional, and gourmet foods, art and crafts, live musical entertainment, in an outdoor setting. (*Ordinance No. 1083, 2-17-09*)

**FLAG** shall mean any fabric containing distinctive colors, patterns, or symbols, used as a symbol of a national, state, or local governmental entity that is attached to a pole structure on one vertical side only; a flag shall not bear any non-governmental logo or represent any commercial interest or use. (*Ordinance No. 1334, 11-20-18*)

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

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

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

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

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

# ORDINANCE RECORD

No. 728-REFIELD & COMPANY INC., OMAHA

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

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

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

## **Section 2.08 - Definitions: G**

**GARAGE** shall mean a detached accessory building or *an attached* portion of a *dwelling* for the housing of vehicles, including carports. (*Ordinance No. 1083, 2-17-09*)

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

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

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

**GROUND-MOUNTED SECS** shall mean a solar photovoltaic system mounted on a structure, pole or series of poles constructed specifically to support the photovoltaic system and not attached to any other structure. (*Ordinance No. 1389, 3-3-2020*)

**GROUP CARE HOME** shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four (24) hour care for individuals in a residential setting. *This term does not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals where the common living arrangement is temporary or seasonal. Also, the term does not include any group of individuals who are in a group living arrangement as a result of criminal offenses.* (*Ordinance No. 1083, 2-17-09*)

**GUNSMITH** shall mean a shop that designs, makes or repairs small firearms. (*Ordinance No. 1083, 2-17-09*)

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

## **Section 2.09 - Definitions: H**

**HARD SURFACED** shall mean any surface used for movement of vehicular and / or pedestrians which is properly designed with permeable pavement, bricks, interlocking concrete pavers, asphalt or concrete. (*Ordinance No. 1083, 2-17-09*)

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

**HAZARDOUS WASTE / MATERIALS** shall mean waste products of industrial or chemical process including finished surplus, used, contaminated or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material. (*Ordinance No. 1083, 2-17-09*)

**HEALTH CLUB** shall mean privately owned for profit facilities such as gymnasiums, athletic clubs, recreational clubs, reducing salons, and weight control establishments. (*Ordinance No. 1083, 2-17-09*)

**HEAVY CONSTRUCTION CONTRACTORS** shall mean contractors primarily engaged in heavy construction other than building, such as highways, streets, bridges, sewers, railroads, irrigation projects, flood control, and special trade contractors primarily engaged in activities of a type that are clearly specialized to such heavy construction and are not normally performed on buildings or building-related projects.

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

**HOME OCCUPATION** shall mean an “in-home” or “home-based” business, industry, or service (not including uses defined as Adult Entertainment Establishment) operating from within a residential dwelling, or within an accessory structure in a residential zoning district. Home occupations shall be secondary and incidental in nature to the primary residential structure and/or property. Home Occupations shall satisfy the standards set forth in Section 7.10 of the City’s Zoning Ordinance.

# ORDINANCE RECORD

No. 728-REFIELD & COMPANY INC., OMAHA

**Home Occupation I (Major):** shall mean Home Occupations that include on-site sales or services and/or one part-time or full-time employee that does not reside on the premises. All Home Occupation I uses are required to have a Home Occupation License.

**Home Occupation II (Minor):** shall mean a Home Occupation that is not a Home Occupation I, including the following (a) a Home Occupation in which the sole activity is maintenance and use of an office in the home for telecommuting and/or deriving other income or sales; and (b) home-based craftmaking or cooking, which does not involve on-site sales (**Ordinance No. 879, 11-19-02**). Occupations defined as Home Occupation II are exempt from a conditional use permit and Home Occupation License. All Home Occupation I uses are required to have a Home Occupation License. (**Ordinance No. 879, 11-19-02**)

**HOME OCCUPATION LICENSE** shall mean a license provided to the owner/operator of a home occupation, as described in Section 7.10 of the City's Zoning Ordinance.

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

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

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

**HOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. (**Ordinance No. 1083, 2-17-09**)

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

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

## **Section 2.10 - Definitions: I**

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

**INDOOR RECREATIONAL FACILITY** shall refer to use of a facility for purposes of recreation. The use shall be completely enclosed within a building with the exception of retractable roofs. Examples include, but are not limited to sports courts, gymnastics, kart racing, batting cages, practice fields, and miniature golf. (**Ordinance No. 1083, 2-17-09**)

**INDUSTRIAL CONDOMINIUM** shall mean a structure or structures proposed for construction comprising a project in which an undivided interest in the land is coupled with the right to the exclusive occupancy of a designated industrial or manufacturing space and/or spaces and accompanying facilities. (**Ordinance No. 1245, 4-21-15**)

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

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

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

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

## **Section 2.11 – Definitions: J**

**JUICE BAR** (See Adult Establishment)

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

# ORDINANCE RECORD

No. 728-REFIELD & COMPANY INC., OMAHA

## Section 2.12 - Definitions: K

**KENNEL** shall mean an establishment where three (3) or more dogs, cats, or other household pets, or non-farm/non-domestic or any combination of five (5) or more thereof, at least four (4) months of age are boarded as a business. (*Ordinance No. 1083, 2-17-09*)

## Section 2.13 - Definitions: L

**LABORATORY** shall mean a facility used for testing and analyzing medical and dental samples from off-site locations. Testing laboratories shall refer to soil and geotechnical research and analysis. Laboratories do not include human or animal research / testing facilities. (*Ordinance No. 1083, 2-17-09*)

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

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

**LAUNDRY SERVICE** shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises. (*Ordinance No. 1083, 2-17-09*)

**LOADING AREA** shall mean an off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress. (*Ordinance No. 1083, 2-17-09*)

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

**LOT** shall mean a parcel or tract of real property with a separate and distinct number or other identifying designation shown on a plat which has been created in conformance with this ordinance and the La Vista Subdivision Regulations, assigned, and recorded in the Office of the Sarpy County Register of Deeds. Each individual lot is subject to the provisions of a particular base zoning district, and shall have a minimum frontage of 20 feet, except as provided in an approved Planned Unit Development. All lots must have public access via directly abutting a public street or right-of-way or maintaining a dedicated public access easement(s) if the lot is abutting a private road or drive.

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

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

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

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

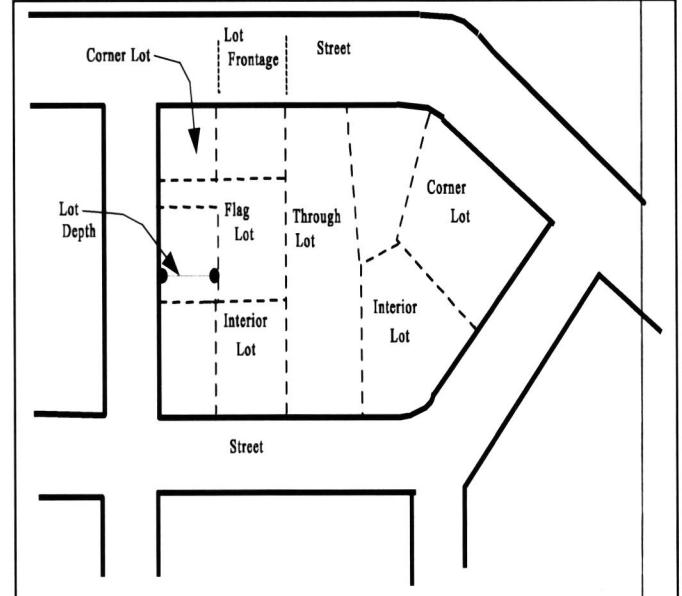
**LOT, DOUBLE FRONTAGE** shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.

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

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

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

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



# ORDINANCE RECORD

No. 728—REFIELD & COMPANY INC., OMAHA

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

**LOT LINE, SIDE** shall mean any lot line *that is* not a front lot line or rear lot line. (*Ordinance No. 1083, 2-17-09*)

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

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

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

## **Section 2.14 - Definitions: M**

**MAIL ORDER SERVICES** shall mean an establishment primarily engaged in the retail sale of products by television, telemarketing, internet, catalog, and mail order. Such a use may include warehousing, shipping, and receiving of merchandise intended for retail sale. (*Ordinance No. 1083, 2-17-09*)

**MANUFACTURED HOME** A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development. (*Ordinance No. 1083, 2-17-09*)

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

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

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

**MANUFACTURING, ARTISAN (LIMITED)** shall mean the manufacture and production of commercial goods by a manual worker or craftsman, such as jewelry, metalwork, cabinetry, stained glass, textiles, ceramics, or hand-made food products. Artisan Manufacturing and Production does not include any activity that causes noise, odor, or vibration to be detectable on a neighboring property.

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

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

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

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

**MEDICAL / DENTAL OFFICES / CLINICS** shall mean a building or portion of a building containing offices and facilities for providing medical, dental, and psychiatric services for outpatients only. (*Ordinance No. 1083, 2-17-09*)

# ORDINANCE RECORD

No. 728-REFFIELD & COMPANY INC., OMAHA

**MEETING HALL** shall mean a building designed for public assembly. (*Ordinance No. 1083, 2-17-09*)

**MICROBREWERY** shall mean an establishment that produces and distributes beer, ale, or other fermented malt beverages. By definition, these establishments produce less than 20,000 barrels per year with 75 percent or more of its beer sold off-site. (*Ordinance No. 1292, 9-6-16*)

**MICRODISTILLERY** shall mean an establishment that produces up to 10,000 proof gallons of distilled alcohol such as whiskey, rum, gin, vodka, and other spirits. Such business shall have a valid Nebraska Micro Distillery License and be licensed by the US Department of Treasury – Alcohol and Tobacco Tax and Trade Bureau (TTB) as a DSP.

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

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

**MISCELLANEOUS STRUCTURES** shall mean structures, other than buildings, visible from public ways. Examples are: memorials, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, transformers, drive-up facilities. (*Ordinance No. 1083, 2-17-09*)

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

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

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

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

**MORTUARY** shall mean an establishment in which the deceased are prepared for burial or cremation. The facility may include funeral services and spaces for informal gatherings or display of funeral equipment. This classification excludes cemeteries. (*Ordinance No. 1083, 2-17-09*)

**MOTEL** (See Hotel)

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

## **Section 2.15 - Definitions: N**

**NEWSSTAND** shall mean a temporary structure manned by a vendor, whom sells newspapers, magazines and other periodicals. (*Ordinance No. 1083, 2-17-09*)

**NON-CONFORMING STRUCTURE** shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations. (*Ordinance No. 1083, 2-17-09*)

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

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

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

**NURSING CARE AND REHABILITATION FACILITIES** shall mean a type of care facility for persons with chronic illness or disability, particularly older people who have mobility and eating problems. These facilities are licensed by the State of Nebraska and offer 24-hour room and board and health care services, including basic and skilled nursing care, rehabilitation, hospice, and a full range of other therapies, treatments, and programs.

## **Section 2.16 - Definitions: O**

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

# ORDINANCE RECORD

No. 728—REFFIELD & COMPANY INC., OMAHA

**OFFICE PARK** shall mean a development which contains two or more separate office buildings, accessory and supporting uses, and open space all designed, planned, constructed, and maintained on a coordinated basis. (*Ordinance No. 1083, 2-17-09*)

**OPEN AIR FARMERS' MARKET** shall mean a site where outdoor stalls, booths, tables and/or the like are used by one or more vendors for the display and/or sale of locally produced fruits, vegetables, plants, flowers, plant products, and/or animal products such as eggs, milk, butter, cheese and honey. A farmers' market shall not include the display and/or sale of animals.

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

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

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

**OUTDOOR STORAGE** shall mean the storage of any material for a period greater than 72 hours not in an enclosed building, including items for sale, lease, processing, and repair (including motor vehicles). (*Ordinance No. 1083, 2-17-09*)

**OVERLAY DISTRICT** shall mean a district in which additional requirements act in conjunction with the underlying zoning district. The underlying zoning district designation does not change. (*Ordinance No. 1083, 2-17-09*)

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

## **Section 2.17 - Definitions: P**

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

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

**PARKING AREA or VEHICULAR USE AREA** shall refer to all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas. (*Ordinance No. 1083, 2-17-09*)

**PARKING SPACE** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine (9) feet wide by eighteen (18) feet long, plus such additional area as is necessary to afford adequate ingress and egress. (*Ordinance No. 1083, 2-17-09*)

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

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

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

**PERSONAL SERVICES** shall mean establishments or places of business primarily engaged in the provision of services of a personal nature, not including uses defined in Adult Entertainment Establishment. Typical uses include nail salons; day spas; massage spas; and sensory-deprivation tank spas. (*Ordinance No. 1369, 10-1-19*)

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

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

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

# ORDINANCE RECORD

No. 728—REDFIELD & COMPANY INC., OMAHA

## **PINBALL or VIDEO GAMES BUSINESS** (See Amusement Arcade) (Ordinance No. 1083, 2-17-09)

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

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

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

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

**POSTAL STATION** shall mean a commercial business which conducts the retail sale of stationery products, provides packaging and mail services (both U.S. Postal and private service), and provides mailboxes for lease. (Ordinance No. 1083, 2-17-09)

**PREMISES** shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract (See also, Parcel) (Ordinance No. 1083, 2-17-09)

**PRESCHOOL** shall mean a school or center for children under school age, whether licensed as a day care center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards. (Ordinance No. 1083, 2-17-09)

**PRINCIPAL BUILDING** shall mean a building within which the main or primary use of the lot or premises is located. (See also Use, Principal) (Ordinance No. 1083, 2-17-09)

**PUBLIC FACILITIES** shall mean any building held, used, or controlled exclusively for public purposes by any department or branch of federal, state, county, or city government. A building belonging to or used by the public for the transaction of public or quasi-public business. Public services may be rendered from such facilities. (Ordinance No. 1083, 2-17-09)

**PUBLIC SERVICES** shall mean services provided by a public agency within a government facility for purposes of public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities. (Ordinance No. 1083, 2-17-09)

## **Section 2.18 – Definitions: Q**

## **Section 2.19 - Definitions: R**

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

**RECREATIONAL FACILITY** shall mean public or private facilities for the use of passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean race tracks, wildlife conservation areas (used for public viewing), and theme parks. (Ordinance No. 891, 2-04-03)

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

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

**RESERVATION CENTER** shall mean a travel agency; or other such agency involved in selling and arranging transportation, tours, trips, and accommodations for tourists. (Ordinance No. 1083, 2-17-09)

**RESTAURANT, SIT DOWN** shall mean a public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building, in which the restaurant offers table service as opposed to patrons ordering at a counter.

**RESTAURANT, FAST CASUAL** shall mean an establishment whose principal business is the sale of food and/or beverages that offers the ease and convenience of fast food, but with a more inviting sit-down atmosphere. The menu typically consists of better-quality ingredients than can be found at most fast food establishments, but customers still typically order off of a menu board or select their ingredients while moving through an order line.

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No. 728—REFIELD & COMPANY INC., OMAHA

**RESTAURANT, FAST FOOD** shall mean an establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carryout, *drive-thru*, or drive-in; and where food and/or beverages are usually served in paper, plastic, or other disposable containers. (*Ordinance No. 1083, 2-17-09*)

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

**REZONING** shall mean an amendment to or change to the *Official Zoning District Map*. (*Ordinance No. 1083, 2-17-09*)

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

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

**ROAD, PUBLIC** shall mean all public right-of-way reserved or dedicated for *utilities and vehicular and pedestrian traffic*. (*Ordinance No. 1083, 2-17-09*)

## **Section 2.20 - Definitions: S**

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

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

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

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

**SETBACK, FRONT YARD** shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line *or other access way*. (*Ordinance No. 1083, 2-17-09*)

**SETBACK, REAR YARD OR SIDE YARD** shall mean the line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, *offset* by the perpendicular distance prescribed for the yard in the district. (*Ordinance No. 1083, 2-17-09*)

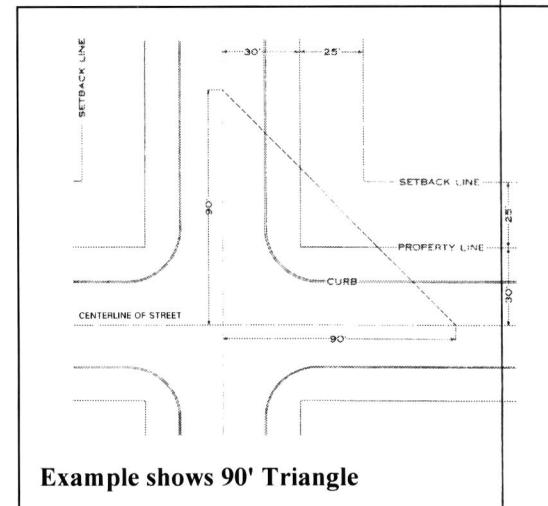
**SHOPPING CENTER** shall mean a group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivery that is separated from customer access, aesthetic considerations, and protection from the elements.

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

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

**SIGHT TRIANGLE** is an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two-and-a-half (2 1/2) feet and ten (10) feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, sixty (60) feet in each direction along the centerline of the streets. At the intersection of major or *other* arterial streets, the sixty (60) foot distance shall be increased to ninety (90) feet for each arterial leg of the intersection. (*Ordinance No. 891, 2-04-03*)

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



Example shows 90' Triangle

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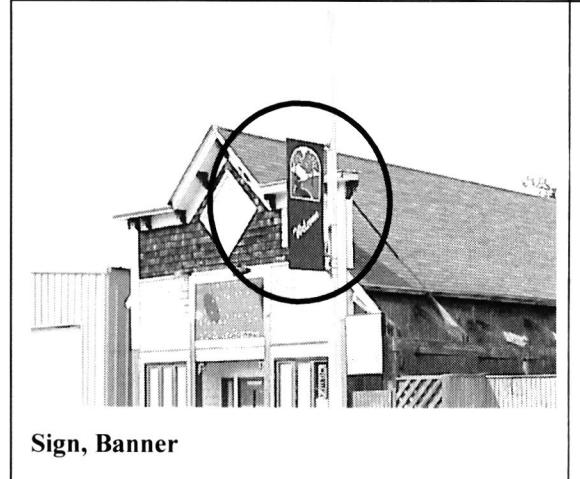
direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest, except the following:

Signs less than fifty (50) square feet in area and less than twenty-five (25) feet in height of a public or quasi-public nature or other official notices that are authorized by the State of Nebraska, City of La Vista, or a Federal Government Agency, directional, informational, or other official signs or notices authorized by law.

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

**SIGN AREA** shall refer to that portion of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated. (*Ordinance No. 1083, 2-17-09*)

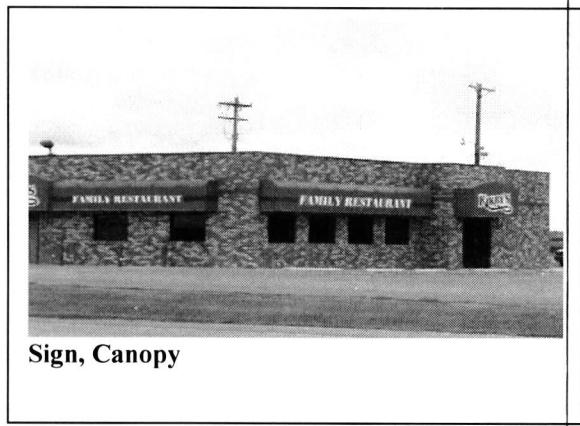
**SIGN, AUDIBLE** shall mean any sign that conveys either a written message supported by an audible noise including music, spoken message, and / or sounds to attract attention to the sign. Audible signs also include signs conveying only the audible noise including music, spoken message, and / or sounds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



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

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

**SIGN, BLADE** shall mean a type of projecting sign that is perpendicular to the building, meant to gain visibility for large buildings, or to direct traffic within a pedestrian-oriented development.



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

**SIGN, CANOPY** shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy. (*Ordinance No. 1083, 2-17-09*)

**SIGN, CENTER IDENTIFICATION** shall mean any sign erected to provide direction to a development including multiple uses and / or structures within the development. Center Identification signs shall include the name of said development and may include the names of major tenants of the development. Center Identification Signs shall typically be similar to Ground (Monument) signs. (*Ordinance No. 1083, 2-17-09*)

**SIGN, CONSTRUCTION** shall mean a temporary sign identifying an architect, engineer, contractor, subcontractor, and/or building material supplier who participates in construction on the property on which the sign is located. (*Ordinance No. 871, 10-15-02*); (*Ordinance No. 1083, 2-17-09*)

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No. 728—REFIELD & COMPANY INC., OMAHA

**SIGN, ELECTRONIC MESSAGE BOARD** shall mean *any sign capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means.* (Ordinance No. 1144, 5-17-11)

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

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

**SIGN, IDENTIFICATION** shall mean a sign giving the nature, logo, trademark, or other identifying symbol; address; or any combination of the name, symbol, and address of a building, business, development, or establishment on the premises where it is located.

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

**SIGN, INCIDENTAL** shall mean a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental. Incidental signs may be attached or painted on the wall, or they may be freestanding signs. (Ordinance No. 1083, 2-17-09)

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

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

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

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

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

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

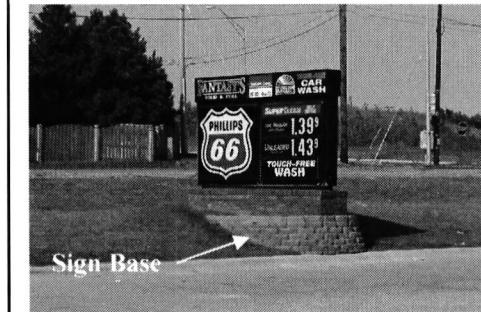
**SIGN, PENNANT** shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

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



Sign, Monument

Sign, Electronic Message  
Sign, Flashing



Sign, Monument

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



Sign, Projecting

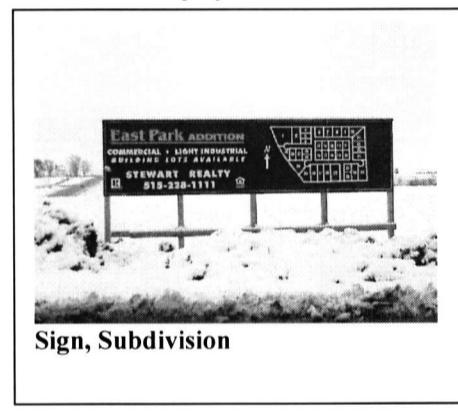
**SIGN, PROJECT DIRECTORY** shall mean a sign fronting on a road containing only the name of the principal use and directional arrow to the principal use. Project directory signs are intended to direct attention to planned multi-tenant developments which are not easily accessible off of such roads and where on-premise signage for that development (or any tenants within the development) would not otherwise be visible by the motorists traveling on nearby arterial or collector roads at the closest point of access. (Ordinance No. 1144, 5-17-11)

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

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

**SIGN, ROOF** shall mean a sign identifying the name of a business, enterprise, district, or development, and erected on or over the roof of a building. (Ordinance No. 1083, 2-17-09)

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



Sign, Subdivision

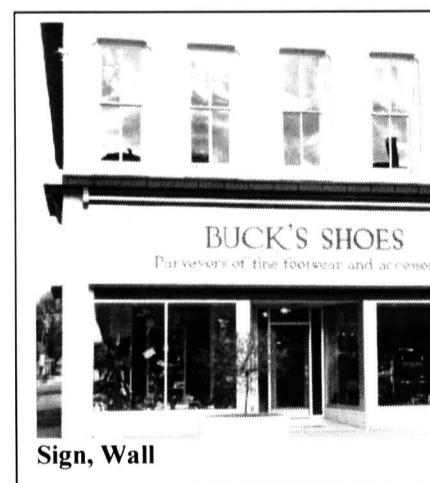
**SIGN, SUBDIVISION** shall mean a sign erected on a subdivision which identifies the platted subdivision where the sign is located.

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

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

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

**SIGN, VIDEO** shall mean any on-premises or off-premises sign that conveys either a commercial or non-commercial message, including a business or organization name, through means of a television or other video screen. This definition shall include electronic message board signs. (Ordinance No. 1083, 2-17-09)



Sign, Wall

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

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

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

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

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

**SMOKE SHOP AND TOBACCO STORE** each shall mean any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, use or marketing of tobacco products, tobacco paraphernalia,

# ORDINANCE RECORD

No. 728—REFFIELD & COMPANY INC., OMAHA

electronic nicotine delivery systems, alternative nicotine products, or cannabidiol (CBD) products, or the sale, inhalation, ingestion, absorption, or other means of consumption or use of any such products, provided each such activity occurring on the premises is legally permissible under all applicable federal and State of Nebraska laws, rules, and regulations in existence on January 1, 2022; and provided, further, that any grocery store, supermarket, convenience store, or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a “smoke shop” or “tobacco store”.

**SOCIAL CLUB OR FRATERNAL ORGANIZATIONS** shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit. (*Ordinance No. 1083, 2-17-09*)

**SOLAR ENERGY CONVERSION SYSTEM (SECS)** shall mean any device, such as a solar panel or solar collector or any combination thereof, which collects and converts solar energy to a form of usable energy. This includes both Building-Mounted Systems and Ground-Mounted System. (*Ordinance No. 1389, 3-3-2020*)

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

**SPECIAL or VOCATIONAL TRAINING FACILITIES** shall mean a specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills such as accounting, data processing, and computer repair. This classification excludes establishments providing training in an activity that is not otherwise permitted in the zone. Incidental instructional services in conjunction with another primary use shall not be included in this definition. (*Ordinance No. 1083, 2-17-09*)

**SPECIALTY FOOD STORE** shall mean a retail establishment that sells only specialized types or classes of staple foods and accessory foods including but not limited to bakeries, donut shops, ice cream stores, produce markets, meat markets, imported food stores, or boutique or health food grocery stores.

**SPECIFIED ANATOMICAL AREAS** shall mean anatomical areas consisting of:  
Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and,  
Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

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

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

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

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

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

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

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

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

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

**STREET, PRIVATE** shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. *(Ordinance No. 1083, 2-17-09)*

**STREETSCAPE** shall mean the scene as may be observed along a street *right-of-way* composed of natural and man-made components, including buildings, paving, plantings, poles, signs, benches, and other miscellaneous amenities. *(Ordinance No. 1083, 2-17-09)*

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

**STRUCTURE, TEMPORARY** shall mean a structure permitted as a temporary use. *(Ordinance No. 1083, 2-17-09)*

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

**SUBDIVISION** shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. *(Ordinance No. 1083, 2-17-09)*

## Section 2.21 - Definitions: T

**TANNING SPA or SALON** shall mean any business that uses artificial lighting or other systems to produce a tan on an individual's body. These facilities may be either a stand-alone business or as an accessory use in spas, gymnasiums, athletic clubs, health clubs, and styling salons. This use is not included with any type of adult establishment. *(Ordinance No. 1083, 2-17-09)*

**TAVERN AND COCKTAIL LOUNGE** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. *(Ordinance No. 1083, 2-17-09)*

**TELECOMMUNICATIONS FACILITY** shall mean any facility that transmits and/or receives signals by electromagnetic or optical means, including antennas, microwave dishes, horns, or similar types of equipment, towers or similar structures supporting such equipment, and equipment buildings. *(Ordinance No. 1083, 2-17-09)*

**TELEPHONE EXCHANGE** shall mean a building used exclusively for the transmission and exchange of telephone messages, but the term shall not include wireless communication towers. *(Ordinance No. 1083, 2-17-09)*

**TEMPORARY USE** shall mean a use intended for limited duration, *not to exceed six (6) months*, to be located in a zoning district not permitting such use. *(Ordinance No. 1083, 2-17-09)*

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

**TOBACCO PRODUCT** shall mean any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from the tobacco plant, or otherwise derived, which is intended to enable human consumption of the tobacco or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. For the purposes of this chapter, the term "tobacco product" excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as a tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose.

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

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

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

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**TUTORING AND EXAM PREPARATION SERVICES** shall mean services and programs providing private instruction for students (children or adults) seeking supplemental, special, or remedial instruction with coursework, exam preparation, or enhancement of their regular educational program. The primary service provided is educational, and not child care. (*Ordinance No. 1341, 2-5-19*)

## Section 2.22 - Definitions: U

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

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

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

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

## Section 2.23 - Definitions: V

**VARIANCE** shall mean a relief granted by the *Board of Adjustment* from or variation of the provisions of this Ordinance, other than use regulations, as applied to a specific piece of property, as distinct from rezoning. (*Ordinance No. 1083, 2-17-09*)

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

## Section 2.24 – Definitions: W

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

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

**WIND ENERGY SYSTEM or WIND ENERGY CONVERSION SYSTEM (WECS)** shall mean a wind-driven machine that converts wind energy into electrical power for the primary purpose of on-site use or resale for off-site use. (*Ordinance No. 1083, 2-17-09*)

**WIRELESS COMMUNICATIONS TOWER** shall mean a structure designed and constructed to support one or more antennas used by commercial wireless telecommunication facilities and including all appurtenant devices attached to it. A tower can be freestanding (solely self-supported by attachment to the ground) or supported (attached directly to the ground and with guy wires), of either lattice or monopole construction. (*Ordinance No. 1083, 2-17-09*)

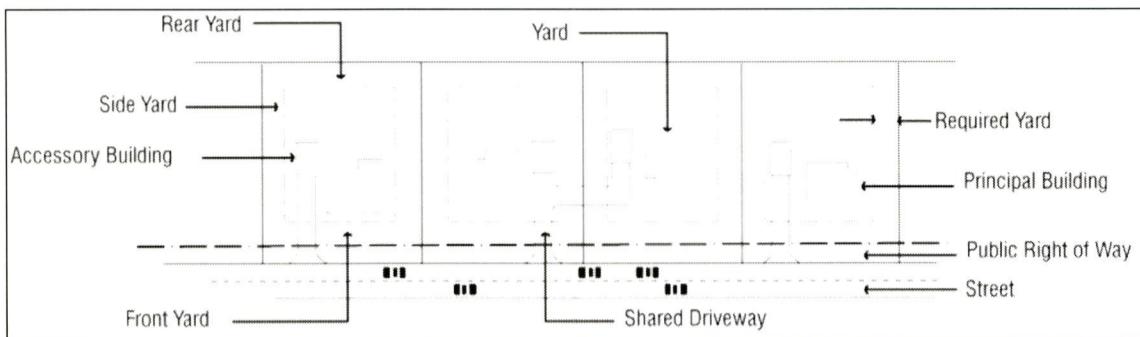
## Section 2.25 – Definitions: X

## Section 2.26 - Definitions: Y

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

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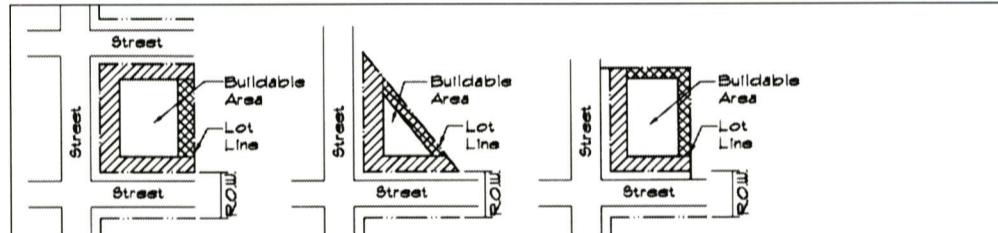
**YARD, FRONT** shall mean a space between the front yard setback line and the front lot line or *right-of-way line*, and extending the full width of the lot. (*Ordinance No. 1083, 2-17-09*)

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

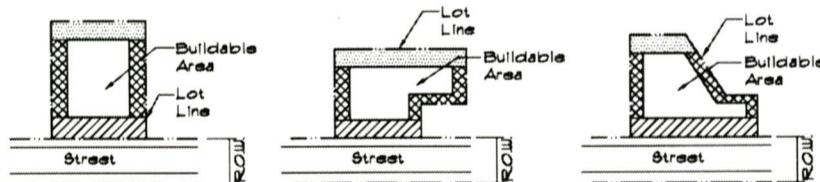
**YARD, SIDE** shall mean a space extending from the front yard or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

## Section 2.27 - Definitions: Z

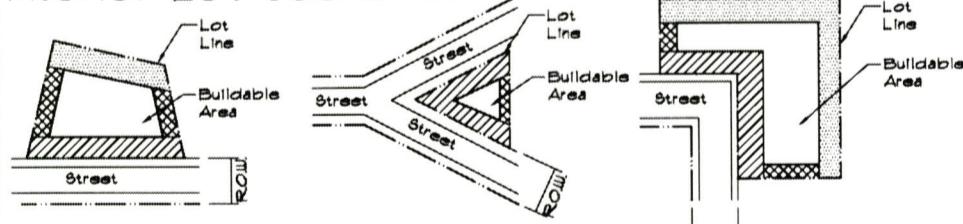
2.07.276 **ZONE LOT** shall mean a parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by the zoning regulations.



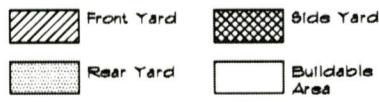
## Corner Lot Scenarios



## Interior Lot Scenarios



## Odd-Shaped Lot Scenarios



## Example of possible Lot Configurations and Yard Requirement

SECTION 2. Amendment of Article 4. Article 4 of the Ordinance No. 848 is hereby amended to read as follows:

## ARTICLE 4: GENERAL PROVISIONS

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**Section 4.01 Planning Commission Recommendations.** Pursuant to Section §19-901 et. seq., (Nebraska Reissue Revised Statutes, 1943), it shall be the purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein.

The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the City Council shall not hold its public hearings or take action until it has received the final report of the Commission.

**Section 4.02 District Regulations, Restrictions, Boundary Creation.** No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the City at least one (1) time ten (10) days prior to such hearing.

**Section 4.03 Jurisdiction.** The provisions of this Ordinance shall apply within the corporate limits of the City of La Vista, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of two (2) miles, as established on the map entitled "The Official Zoning Map of the City of La Vista, Nebraska", and as may be amended by subsequent annexation.

**Section 4.04 Provisions of Ordinance Declared to be Minimum Requirements.** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance require a lower height of building or lesser size of yards, courts or other spaces, or require a lower height of building or lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other ordinance, the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance requires a greater width or size of yards, courts, or other open spaces, or requires a lower height of building or a lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

**Section 4.05 Zoning Affects Every Building and Use.** No building or land shall hereafter be reused and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except that any structure damaged or destroyed may be restored if such structure does not involve a non-conforming use.

## **Section 4.06 Lot.**

- 4.06.01 Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one (1) principal building on a lot unless otherwise provided.
- 4.06.02 More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if approved by the City. (*Ordinance No. 892, 2-04-03*)
  - 4.06.02.01 Institutional buildings
  - 4.06.02.02 Public or semi-public buildings
  - 4.06.02.03 Multiple-family dwellings
  - 4.06.02.04 Commercial or industrial buildings
  - 4.06.02.05 Home for the aged
  - 4.06.02.06 Agricultural buildings

**Section 4.07 Reductions in Lot Area Prohibited.** No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

**Section 4.08 Obstructions to Vision at Street Intersections Prohibited.** A corner lot, within the area formed by the center line of streets at a distance of sixty (60) feet from their intersections, there shall be no obstruction to vision between a height of two and one-half (2 1/2) feet and a height of ten (10) feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. At the intersection of major or other arterial streets, the 60-foot distance shall be increased to 90 feet for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall. *City has right to increase this distance based upon subdivision design and speed limits along major or other arterials.* (*Ordinance No. 893, 2-04-03*)

## **Section 4.09 Yard Requirements.**

- 4.09.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- 4.09.02 All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 4.09.03 The City may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1) More than thirty (30) percent of the frontage on one side of a street between intersecting streets is occupied by structures on the

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effective date of this Ordinance, and 2) A minority of such structures have observed or conformed to an average setback line.

## **Section 4.10 Through Lots.**

4.10.01 Through Lots shall follow the following criteria:

- 4.10.01.01 Where a Through Lot abuts a major thoroughfare, such as 84<sup>th</sup> Street, Giles Road, Harrison Street, etc., and access is made from the other frontage street and access along said thoroughfare is restricted, the Rear Yard setback for fences and screening devices shall be zero (0) feet. The Rear Yard setback for accessory buildings shall follow the prescribed setback within the zoning district.
- 4.10.01.02 Where a Through Lot is part of a triple frontage lot and abuts a major thoroughfare, the Rear Yard shall meet the standards of 4.10.01.01, while the other two frontages shall be treated as a Corner Lot with a Front Yard setback and a Street Side Yard setback.
- 4.10.01.03 Where a Through Lot occurs, other than along a major thoroughfare, the following shall apply:
  - 1. Where all principal structures in the development face the same frontage, then the Rear Yard setback for fences and screening shall be zero (0) feet and all accessory buildings shall meet the prescribed setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical Corner Lot.
  - 2. Where principal structures face different directions along both frontages, the Rear Yard setback for fences and screening shall be the same as any prescribed Rear Yard setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical Corner Lot. All accessory buildings in this condition, shall comply with the minimum Rear Yard setbacks rather than the reduced setback allowed for accessory buildings.

**Section 4.11 Drainage.** No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the City or their designated agent with data indicating that such changes will not be a detriment to the neighboring lands.

**Section 4.12 Permitted Obstructions in Required Yards.** The following shall not be considered to be obstructions when located in the required yards:

- 4.12.01 *All Yards:* Steps and accessibility ramps used for wheelchair and other assisting devices which are four (4) feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys projecting twenty-four (24) inches or less into the yard; recreational and laundry-drying equipment; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than eighteen (18) inches into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards.
- 4.12.02 *Front Yards:* Bay windows projecting three (3) feet or less into the yard are permitted.
- 4.12.03 *Rear and Side Yards:* Open off-street parking spaces or outside elements of central air conditioning systems.
- 4.12.04 *Double Frontage Lots:* The required front yard shall be provided on each street, unless otherwise provided.
- 4.12.05 *Building Groupings:* For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one (1) building occupying one (1) lot.

## **Section 4.13 Projections from Buildings**

- 4.13.01 Cornices, eaves, canopies, belt courses, sills, ornamental features, and other similar architectural features may project not more than two (2) feet into any required yard or into any required open space, provided that such required yard or open space meets the current minimum yard standards.
- 4.13.02 As a part of single and two family residences, open uncovered porches or decks no higher than the first floor above grade on the side of the building to which they are appurtenant and in no event higher than thirty (30) inches above grade of the lot on the side of the structure where such porch or deck is located, may extend: (*Ordinance No. 894, 2-04-03*)
  - 4.13.02.01 Three (3) feet into any side yard that otherwise meets minimum side yard requirements provided that the other side yard also meets such minimum side yard requirements and remains free of encroaching structures of any kind; and that said new encroachment meets all separation requirements between structures as determined in the City's Building Code, except gated fences providing access to the rear yard.
  - 4.13.02.02 Eight (8) feet into a front yard provided that the front yard otherwise meets minimum front yard requirements and provided further 1) That in no event may such porch or deck cover more than 96 square feet of the required front yard or extend beyond the side walls of the building structure, and 2) Front decks or porches shall not be higher than thirty (30) inches above ground and no higher than the first floor, except that on

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homes with front entryways at first floor level but driveway cuts and garage floors at basement level, there may be constructed a veranda-type uncovered deck or porch extending from the front deck or porch over the garage door or doors, which extended area shall be at the same elevation and shall have bracing as required by the Chief Building Official, and 3) Covered porches, built of materials of the same or similar nature as the roof of the principal structure may be allowed with eaves not to exceed twelve (12) inches.

- 4.13.02.03 Safety railings shall be installed as per the City's Building Code and as approved by the Chief Building Official.
- 4.13.02.04 One-half (1/2) of the distance into the required rear yard, but in no event closer than fifteen (15) feet to any property line. (*Ordinance No. 894, 2-04-03*)
- 4.13.03 Provided further, that no railing or other shall be placed around such deck or porch in a rear yard or side yard and no such barrier which interferes appreciably more than twenty-five (25) percent with the passage of light or air shall be constructed within the required front yard or within five (5) feet of any side yard or fifteen (15) feet of any rear yard lot line. Any such deck or porch when located on a lot at the intersection of two (2) streets or a street and an alley, shall comply with the provisions designed to ensure proper sight distances as set forth in this Ordinance for fences and hedges. Any side yard on a corner lot when such yard is twenty (20) feet or more in width, may be considered as a front yard for purposes of determining permitted encroachments as provided herein. (*Ordinance No. 894, 2-04-03*)
- 4.13.04 Vertical supports shall meet the City's Building Code.

## Section 4.14 Accessory Building and Uses.

- 4.14.01 No accessory building shall be constructed upon a lot for more than six (6) months prior to beginning construction of the principal building. No accessory building shall be used for more than six (6) months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
- 4.14.02 No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.
- 4.14.03 No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.
- 4.14.04 Detached accessory buildings or structures shall be located no closer to any other accessory or principal building as provided in the local building code.
- 4.14.05 Garages and outbuildings in Residential Districts for storage uses and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction. The sidewalls of said building shall not exceed ten (10) feet in height.
- 4.14.06 Regulation of accessory uses shall be as follows:
  - 4.14.06.01 Except as herein provided, no accessory building shall project beyond a required yard line along any street.
  - 4.14.06.02 Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than fifteen (15) feet from street lines.

## Section 4.15 Permitted Modifications of Height Regulations.

- 4.15.01 The height limitations of this Ordinance shall not apply to:

Belfries	Public Monuments
Chimneys	Ornamental Towers and Spires
Church Spires	Radio and Television
Conveyors	Towers less than 125 feet in height
Cooling Towers	Silos
Elevator Bulkheads	Smoke Stacks
Fire Towers	Stage Towers or Scenery Lots
Water Towers and Standpipes	Tanks
Air-Pollution Prevention Devices	
- 4.15.02 When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding seventy-five (75) feet when each required yard line is increased by at least one (1) foot for each one (1) foot of additional building height above the height regulations for the district in which the building is located.
- 4.15.03 Flag pole height, as measured from the ground, shall not exceed the height of its accompanying building by more than 25% of the building's height as constructed. The maximum height allowed for a flag pole shall be 50' or 25% above the accompanying building's height, whichever is the lesser value.

**Section 4.16 Occupancy of Basements and Cellars.** No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed.

**Section 4.17 Non-Conforming, General Intent.** It is the intent of this ordinance to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared

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by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title.

**Section 4.18 Nonconforming Lots of Record.** In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provision of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; that such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous ordinance would have prohibited creation of such lot. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment.

## **Section 4.19 Nonconforming Structures.**

4.19.01 **Authority to continue:** Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.

4.19.02 **Enlargement, Repair, Alterations:** Any such structure described in Section 4.19.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by or as specified in the Residential District. All enlargements shall meet all existing required setbacks unless provided elsewhere in this Ordinance.

4.19.03 **Damage or Destruction:** In the event that any structure described in Section 4.19.01 is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.19, shall not have a side yard of less than five (5) feet. When a structure is damaged to the extent of less than fifty percent (50%) of its structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and may be extended six (6) months upon an approved building Permit extension request.

4.19.04 **Moving:** No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

## **Section 4.20 Nonconforming Uses.**

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

4.20.01.01 No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment or this ordinance;

4.20.01.02 No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.

4.20.01.03 If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

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

4.20.02.01 No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;

4.20.02.02 Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at

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4.20.02.03 the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building; If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the Planning Commission and City Council, after each has completed a Public Hearing as per State Statute, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Planning Commission and/or City Council may require appropriate conditions and safeguard in accord with the provisions of this ordinance;

4.20.02.04 Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;

4.20.02.05 When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;

4.20.02.06 Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

## **Section 4.21 Repairs and Maintenance.**

4.21.01 On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this ordinance shall not be increased.

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

**Section 4.22 Uses under Special Use Permit not Nonconforming Uses.** Any use for which a special permit is issued as provided in this ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

**Section 4.23 Fees.** All fees for any zoning or subdivision related action shall be required prior to the issuance or investigation of any said permit request. Fees shall be a part of the Master Fee Schedule adopted by the City Council by separate Ordinance.

**SECTION 3. Amendment of Article 5.** Article 5 of the Ordinance No. 848 is hereby amended to read as follows:

## **ARTICLE 5: ZONING DISTRICTS**

5.01	Districts; Uses	
5.02	Districts; Boundaries	
5.03	District Boundaries; Interpretation	
5.04	Districts; Classification of Districts upon Annexation and Conformance with Land Use Plan	
5.05	District (TA);	Transitional Agricultural
5.06	District (R-1);	Single-Family Residential
5.07	District (R-2);	Two-Family Residential
5.08	District (R-3);	High Density Residential
5.09	District (R-4);	Condominium Residential
5.10	District (C-1);	Shopping Center District
5.11	District (C-2);	General Commercial
5.12	District (C-3);	Highway Commercial / Office Park District
5.13	District (I-1);	Light Industrial
5.14	District (I-2);	Heavy Industrial
5.15	District (PUD-1);	Planned Unit Development
5.16	District (R-M);	Mobile Home Residential
5.17	District (GWAY);	Gateway Corridor (overlay)
5.18	District (FF/FW);	Flood Plain (overlay)
5.19	District (MU-CC);	Mixed Use – City Centre

**Section 5.01 Districts; Use.** For the purpose of this Ordinance, the Municipality is hereby divided into fifteen (15) districts, designated as follows:

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(TA)	Transitional Agricultural
(R-1)	Single-Family Residential
(R-2)	Two-Family Residential
(R-3)	High Density Residential
(R-4)	Condominium Residential
(C-1)	General Commercial District
(C-2)	Shopping Center Commercial
(C-3)	Highway Commercial / Office Park District
(I-1)	Light Industrial
(I-2)	Heavy Industrial
(PUD-1)	Planned Unit Development
(R-M)	Mobile Home Residential
(GWAY)	Gateway Corridor Overlay
(FF/FW)	Flood Plain (overlay)
(MU-CC)	Mixed Use – City Centre

**Section 5.02 Districts; Boundaries.** The boundaries of the districts are hereby established as shown on the maps entitled "Official Zoning Map of the City of La Vista, Nebraska." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Ordinance as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Mayor, and attested by the City Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this Ordinance. Such changes shall be promptly indicated on the Zoning District Map with the Ordinance number, nature of change, and date of change noted on the map. (Ref. §19-904 RS Neb.)

**Section 5.03 Rules for Interpretation of District Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- 5.03.01 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- 5.03.02 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- 5.03.03 Boundaries indicated as approximately following City limits shall be construed as following such City limits;
- 5.03.04 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- 5.03.05 Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- 5.03.06 Boundaries indicated as parallel to or extensions of features indicated in subsections 5.03.01-5.03.05 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- 5.03.07 Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 5.03.01-5.03.06 above, the Board of Zoning Adjustment shall interpret the district boundaries;
- 5.03.08 Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, The Board of Zoning Adjustment may permit the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

**Section 5.04 Classification of Districts upon Annexation and Conformance with the Land Use Plan.**  
Areas annexed into the corporate limits of La Vista shall be zoned to conform to the Land Use Plan.

## Section 5.05 TA Transitional Agriculture District

**5.05.01 Intent:** The Transitional Agriculture District is established to recognize these properties as agricultural at present with the understanding that they may be suitable for development in the future. This district allows for existing agricultural properties to continue using the land in that manner.

### 5.05.02 Permitted Uses.

- 5.05.02.01 Farming, pasturing, truck gardening, orchards, greenhouses and nurseries, including the sale of products raised on the premises, provided that no livestock feedlot or yard for more than twelve (12) animals shall be established.
- 5.05.02.02 Farm dwellings for the owners and their families, tenants, and employees.
- 5.05.02.03 Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
- 5.05.02.04 Railroads, not including switching, terminal facilities or freight yards.
- 5.05.02.05 Public overhead and underground local distribution utilities.
- 5.05.02.06 Single family dwelling.
- 5.05.02.07 Churches.
- 5.05.02.08 Hydrogenation process.
- 5.05.02.09 Public services.
- 5.05.02.10 Publicly owned and operated facilities.
- 5.05.02.11 Roadside stands offering for sale agriculture products on the premises.

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## 5.05.03 Permitted Conditional Uses:

- 5.05.03.01 Radio, television and wireless communication towers and transmitters, as per Section 7.11.
- 5.05.03.02 Cemeteries provided all structures are located at least one hundred (100) feet from all property lines.
- 5.05.03.03 Wastewater treatment facilities.
- 5.05.03.04 Indoor and outdoor private recreation areas and facilities including country clubs, golf courses (but not miniature golf), soccer fields, tennis courts, basketball courts, and swimming pools.
- 5.05.03.05 Home occupations, as per Section 7.10.
- 5.05.03.06 Raising and care of animals for 4-H, Future Farmer of America (FFA) or other rural/school organizations.
- 5.05.03.07 Wind energy systems on tracts of more than ten (10) acres, as per Section 7.18.
- 5.05.03.08 Airports.
- 5.05.03.09 Campgrounds.
- 5.05.03.10 Water reservoir.
- 5.05.03.11 Ground-Mounted Solar Energy Conversion Systems outside of the rear yard, as provided for in Section 7.15. (*Ordinance No. 1389, 3-3-2020*)

## 5.05.04 Permitted Accessory Uses:

- 5.05.04.01 Buildings and uses customarily incidental to the permitted and conditional uses.
- 5.05.04.02 Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- 5.05.04.03 Signs as provided for in Section 7.01 through 7.04.
- 5.05.04.04 Parking as provided for in Section 7.05 through 7.09.
- 5.05.04.05 Private outdoor swimming pool, and other similar facilities in conjunction with a residence.
- 5.05.04.06 Storage or parking of vehicles, boats, campers and trailer, as per Section 7.13.
- 5.05.04.07 Solar Energy Conversion Systems as provided for in Section 7.15. (*Ordinance No. 1389, 3-3-2020*)

## 5.05.05 Height and Lot Requirements:

- 5.05.05.01 The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Acres)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	20	660'	75'	25'	25'	45'	-
Permitted Conditional Uses	20	660'	75'	25'	25'	45'	-
Recreational Uses	20	330'	20'	20'	10'	75'	-
Accessory Buildings	-	-	100'	25'	10'	17'	-

## Section 5.06 R-1 Single-Family Residential.

**5.06.01 Intent:** The Single-Family Residential District is intended to permit low to medium-density residential developments to accommodate residential and compatible uses.

## 5.06.02 Permitted Uses:

- 5.06.02.01 Single family dwellings.
- 5.06.02.02 Public and private schools.
- 5.06.02.03 Public Services.
- 5.06.02.04 Publicly owned and operated facilities.
- 5.06.02.05 *Child Care Home, as per Section 7.10. (Ordinance No. 880, 11-19-02)*
- 5.06.02.06 *Group Care Home (Ordinance No. 1118, 4-6-10)*
- 5.06.02.07

## 5.06.03

### Permitted Conditional Uses:

- 5.06.03.01 Public and private recreation areas as, country clubs, golf courses, lakes, common areas and swimming pools.
- 5.06.03.02 Churches, temples, seminaries, convents, including residences for teachers and pastors.
- 5.06.03.03 Public utility main transmission lines including substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, garages, towers, or similar public service uses.
- 5.06.03.04 Home Occupations, as per Section 7.10.
- 5.06.03.05 Child Care Center.
- 5.06.03.06 Ground-Mounted Solar Energy Conversion Systems outside of the rear yard, as provided for in Section 7.15. (*Ordinance No. 1389, 3-3-2020*)

## 5.06.04 Permitted Accessory Uses:

- 5.06.04.01 Buildings and uses customarily incidental to the permitted uses.
- 5.06.04.02 Decks, elevated patios either attached or detached.
- 5.06.04.03 Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.

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5.06.04.04 Parking for permitted uses as per Section 7.05 through 7.09.  
5.06.04.05 Signs allowed in Section 7.01 through 7.04.  
5.06.04.06 Temporary buildings incidental to construction work where such building or structures are removed upon completion of work.  
5.06.04.07 Landscaping as required by Section 7.17.  
5.06.04.08 Solar Energy Conversion Systems as provided for in Section 7.15. (*Ordinance No. 1389, 3-3-2020*)  
5.06.04.09

## 5.06.05 Height and Lot Requirements:

5.06.05.01 The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Building Coverage
Single-family Dwelling (existing development <sup>4</sup> ) <sup>2</sup>	5,000	60'	30'	5'	30'	35'	35%
Single-family Dwelling (future development <sup>3</sup> ) <sup>2</sup>	7,000	70'	30'	10'	30'	35'	40%
Other Permitted Uses	8,000	75'	25'	25'	25'	35'	25%
Other Conditional Uses	8,000	75'	25'	25'	25'	45'	25%
Publicly owned and operated facilities <sup>5</sup>	-	-	-	-	-	-	-
Accessory Buildings	-	-	50'	5'	5'	17'	10% <sup>1</sup>

<sup>1</sup> Provided total area of accessory structures for single family does not exceed 700 sq. ft. and the total lot coverage of all buildings and accessory structure does not exceed 50%

<sup>2</sup> On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.

<sup>3</sup> Future development shall be defined as all new subdivisions created after *the adoption of Ordinance No. 848 on November 20, 2001*.

<sup>4</sup> Existing development shall be defined as existing prior to the adoption of this regulation and shall not include any replatting or lot splits done after the date of original adoption.

<sup>5</sup> Publicly owned and operated facilities are exempt from requirements of this subsection 5.06.05. (*Ordinance No. 1371, 10-15-19*)

## Section 5.07 R-2 Two-Family Residential

**5.07.01 Intent:** The purpose of this district is to permit single-family density residential with an increase of density to include duplexes and similar residential development in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

## 5.07.02 Permitted Uses:

5.07.02.01 Single family detached dwellings.  
5.07.02.02 Single family attached.  
5.07.02.03 Two-family, duplex, dwellings.  
5.07.02.04 Public and private schools.  
5.07.02.05 Publicly owned and operated facilities.  
5.07.02.06 Public Services.  
5.07.02.07 *Child Care Home, as per Section 7.10. (Ordinance No. 880, 11-19-02)*  
5.07.02.08 *Group Care Home (Ordinance No. 1118, 4-6-10)*

## 5.07.03 Permitted Conditional Uses:

5.07.03.01 Bed and Breakfasts.

1. Guest rooms shall be within the principal residential building only and not within an accessory building.
2. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.

5.07.03.02 Churches, temples, seminaries, and convents including residences for teachers and pastors.

5.07.03.03 *Nursing care and rehabilitation facilities, or assisted living facilities (Ordinance No. 1118, 4-6-10)*

5.07.03.04 Public utility substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, garages, towers, or similar uses.

5.07.03.05 Home Occupations as per Section 7.10.

5.07.03.06 Child Care Center.

5.07.03.07 Ground-Mounted Solar Energy Conversion Systems outside of the rear yard, as provided for in Section 7.15. (*Ordinance No. 1389, 3-3-2020*)

## 5.07.04 Permitted Accessory Uses:

5.07.04.01 Buildings and uses customarily incidental to the permitted uses.  
5.07.04.02 Decks, elevated patios either attached or detached.  
5.07.04.03 Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.  
5.07.04.04 Signs as provided for in Section 7.01 through 7.04.  
5.07.04.05 Parking as provided for in Section 7.05 through 7.09.  
5.07.04.06 Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.

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5.07.04.07 Landscaping as required by Section 7.17.  
**5.07.04.08** Solar Energy Conversion Systems as provided for in Section 7.15. (**Ordinance No. 1389, 3-3-2020**)

## 5.07.05 Height and Lot Requirements:

5.07.05.01 The height and minimum lot requirements shall be follows:

	Lot Area (SF)	Lot Width	Front Yard	Side Yard <sup>3</sup>	Rear Yard	Max. Height	Max. Building Coverage
Single-family Dwelling (existing development) <sup>5</sup> <sup>2</sup>	5,000	50'	30'	5'	30'	35'	35%
Single-family Dwelling (future development) <sup>4</sup> <sup>2</sup>	7,000	70'	30'	10'	30'	35'	40%
Two-family Dwelling <sup>2</sup>	10,000	100'	30'	10'	30'	35'	40%
Single-family attached	4,500	50' per unit	30'	10'	30'	35'	40%
Other Permitted Uses	8,000	75'	30'	10'	30'	35'	30%
Other Conditional Uses	8,000	75'	30'	10'	30'	45'	30%
Publicly owned and operated facilities <sup>6</sup>	-	-	-	-	-	-	-
Accessory Buildings	-	-	50'	5'	5'	17'	10% <sup>1</sup>

<sup>1</sup> Provided total area of accessory structures for single family does not exceed 700 sq. ft. and the total lot coverage of all buildings and accessory structure does not exceed 50%.

<sup>2</sup> On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.

<sup>3</sup> The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line.

<sup>4</sup> Future development shall be defined as all new subdivisions created after the adoption of Ordinance No. 848 on November 20, 2001.

<sup>5</sup> Existing development shall be defined as existing prior to the adoption of Ordinance No. 848 and shall not include any replatting or lot splits done after the adoption of Ordinance No. 848 on November 20, 2001.

**(Ordinance No. 895, 2-04-03) (Ordinance No. 968, 11-15-05)**

<sup>6</sup> Publicly owned and operated facilities are exempt from requirements of this subsection 5.07.05. (**Ordinance No. 1371, 10-15-19**)

## Section 5.08 R-3 High Density Residential

**5.08.01 Intent:** The purpose of this district is to permit high density residential in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

### 5.08.02 Permitted Uses:

5.08.02.01 Townhouses and Condominiums.  
5.08.02.02 Public and private schools.  
5.08.02.03 Publicly owned and operated facilities.  
5.08.02.04 Public Services.  
5.08.02.05 Child Care Home, as per Section 7.10. (**Ordinance No. 880, 11-19-02**)  
5.08.02.06 Group Care Home (**Ordinance No. 1118, 4-6-10**)  
5.08.02.07 Multiple family dwellings constructed prior to November 20, 2001 (**Ordinance No. 1132, 12-7-10**)

### 5.08.03 Permitted Conditional Uses:

5.08.03.01 Multiple family dwellings *constructed after November 20, 2001*.  
5.08.03.02 Bed and Breakfast.

- Guest rooms shall be within the principal residential building only and not within an accessory building.
- Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.

5.08.03.03 Public utility substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, garages, towers, or similar uses.  
5.08.03.04 Home Occupations, as per Section 7.10.  
5.08.03.05 Child Care Center.  
5.08.03.06 Charitable clubs and organizations.  
5.08.03.07 Nursing care and rehabilitation facilities, and assisted living facilities (**Ordinance No. 1118, 4-6-10**)  
5.08.03.08 Congregate housing, senior apartments (age restricted to 55+ years old), or continuing care retirement community. (**Ordinance No. 1118, 4-6-10**)  
5.08.03.09 Ground-Mounted Solar Energy Conversion Systems outside of the rear yard, as provided for in Section 7.15. (**Ordinance No. 1389, 3-3-2020**)

### 5.08.04 Permitted Accessory Uses:

5.08.04.01 Buildings and uses customarily incidental to the permitted uses.  
5.08.04.02 Decks, elevated patios either attached or detached.  
5.08.04.03 Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.  
5.08.04.04 Signs as provided for in Section 7.01 through 7.04.  
5.08.04.05 Parking as provided for in Section 7.05 through 7.09.  
5.08.04.06 Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.

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5.08.04.07 Landscaping as required by Section 7.17.  
**5.08.04.08** Solar Energy Conversion Systems as provided for in Section 7.15. (*Ordinance No. 1389, 3-3-2020*)

## 5.08.05 Height and Lot Requirements:

5.08.05.01 The height and minimum lot requirements shall be follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Building Coverage
Townhouses/Condominiums <sup>4</sup>	2,500 per unit	25' per unit	30'	10' <sup>5</sup>	30'	35'	40%
Multi-family Dwelling <sup>3</sup>	3,000 per unit for the first four, then 1,500 per each additional unit	100'	30'	(1)	30'	45' <sup>1</sup>	40%
<i>Other Permitted Uses</i>	8,500	75'	30'	10'	30'	35'	30%
Other Conditional Uses	8,500	75'	30'	10'	30'	45'	30%
Publicly owned and operated facilities <sup>6</sup>	-	-	-	-	-	-	-
Accessory Buildings	-	-	50'	5'	5'	17'	10% <sup>2</sup>

<sup>1</sup> For Multi-Family units the side yard shall be 10 feet if it is a 3-story structure, and 5 feet additional side yard on each side shall be provided for each story in excess of 3 stories.  
<sup>2</sup> Provided total area of accessory structures for single family does not exceed 700 sq. ft. and the total lot coverage of all buildings and accessory structure does not exceed 50%  
<sup>3</sup> On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.  
<sup>4</sup> This applies to Condominiums and Townhouses where there are three (3) more units connected and where there is a minimum of two (2) common walls; otherwise the criteria for single-family attached or two-family dwelling shall apply depending upon the appropriate condition.  
<sup>5</sup> Where there are three (3) or more units connected the side yard at the ends shall meet this criteria otherwise the side yard setback shall zero (0) at common walls.  
<sup>6</sup> Publicly owned and operated facilities are exempt from the requirements of this subsection 5.08.05. (*Ordinance No. 1371, 10-15-19*)

## Section 5.09 R-4 Condominium Residential

**5.09.01 Intent:** The purpose of this district is to permit high density residential, including condominium dwellings, in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

## 5.09.02 Permitted Uses:

5.09.02.01 Townhouses and Condominium dwellings.  
 5.09.02.02 Public and private schools.  
 5.09.02.03 Publicly owned and operated facilities.  
 5.09.02.04 Child Care Home, as per Section 7.10. (*Ordinance No. 880, 11-19-02*)  
 5.09.02.05 Multiple family dwellings constructed prior to November 20, 2001. (*Ordinance No. 1132, 12-07-10*)

## 5.09.03 Permitted Conditional Uses:

5.09.03.01 Multiple family dwellings *constructed after November 20, 2001*.  
 5.09.03.02 Bed and Breakfast.
 

- Guest rooms shall be within the principal residential building only and not within an accessory building.
- Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.

 5.09.03.03 Churches, temples, seminaries, and convents including residences for teachers and pastors.  
 5.09.03.04 Public utility substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, garages, towers, or similar uses.  
 5.09.03.05 Home Occupations, as per Section 7.10.  
 5.09.03.06 Child Care Center.  
 5.09.03.07 Charitable clubs and organizations.  
 5.09.03.08 Nursing care and rehabilitation facilities, and assisted living facilities (*Ordinance No. 1118, 4-6-10*)  
 5.09.03.09 *Ground-Mounted Solar Energy Conversion Systems outside of the rear yard, as provided for in Section 7.15. (Ordinance No. 1389, 3-3-2020)*

## 5.09.04 Permitted Accessory Uses:

5.09.04.01 Buildings and uses customarily incidental to the permitted uses.  
 5.09.04.02 Decks, elevated patios either attached or detached.  
 5.09.04.03 Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.  
 5.09.04.04 Signs as provided for in Section 7.01 through 7.04.  
 5.09.04.05 Parking as provided for in Section 7.05 through 7.09.  
 5.09.04.06 Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.  
 5.09.04.07 Landscaping as required by Section 7.17.

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5.09.04.08 Solar Energy Conversion Systems as provided for in Section 7.15. (*Ordinance No. 1389, 3-3-2020*)

## 5.09.05 Height and Lot Requirements:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Building Coverage
Townhouses/Condominiums <sup>4</sup>	2,500 per unit	25' per unit	30'	10' <sup>5</sup>	30'	35'	40%
Multi-family Dwelling <sup>3</sup>	3,000 per unit for the first four, then 1,500 per each additional unit	100'	30'	( <sup>1</sup> )	30'	45' <sup>1</sup>	40%
Other Permitted Uses	8,500	75'	30'	10'	30'	35'	30%
Other Conditional Uses	8,500	75'	30'	10'	30'	45'	30%
Publicly owned and operated facilities <sup>6</sup>	-	-	-	-	-	-	-
Accessory Buildings	-	-	50'	8'	10'	17'	10% <sup>2</sup>

<sup>1</sup> For Multi-Family units the side yard shall be 10 feet if it is a 3-story structure, and 5 feet additional side yard on each side shall be provided for each story in excess of 3 stories.

<sup>2</sup> Provided total area of accessory structures for single family does not exceed 700 sq. ft. and the total lot coverage of all buildings and accessory structure does not exceed 50%

<sup>3</sup> On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.

<sup>4</sup> This applies to Condominiums and Townhouses where there are three (3) or more units connected and where there is a minimum of two (2) common walls; otherwise the criteria for single-family attached or two-family dwelling shall apply depending upon the appropriate condition.

<sup>5</sup> Where there are three (3) or more units connected the side yard at the ends shall meet these criteria otherwise the side yard setback shall zero (0) at common walls. (*Ordinance No. 881, 11-19-02*)

<sup>6</sup> Publicly owned and operated facilities are exempt from the requirements of this subsection 5.09.05. (*Ordinance No. 1371, 10-15-19*)

## Section 5.10 C-1 Shopping Center Commercial.

**5.10.01 Intent:** The purpose and intent of the City of La Vista in establishing the C-1 Shopping Center Commercial District is to provide convenient local retail shopping and service areas within the city for all residents and to provide for the development of new local commercial districts where so designated. This includes uses such as retail stores, banks, theaters, business offices, restaurants, and taverns. (*Ordinance No. 1253, 6-15-15*)

This district prohibits all exterior storage by a primary use unless a separate Conditional Use Permit is requested for the use and granted by the City.

## 5.10.02 Permitted uses:

5.10.02.01	Medical/dental offices and business services including attorneys, banks, insurance, real estate offices, postal stations, credit services, security brokers, dealers and exchange, title abstracting, finance services and investment services; but not including uses defined in Adult Establishment. ( <i>Ordinance No. 950, 3-1-05</i> )
5.10.02.02	Childcare center.
5.10.02.03	Dance studio, not including uses defined in Adult Establishment.
5.10.02.04	Meeting hall, not including uses defined in Adult Establishment.
5.10.02.05	Museum, art gallery.
5.10.02.06	Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following: 1. Apparel shop. 2. Appliance store. 3. Antique store. 4. Automobile parts and supply store. 5. Bakery shop (retail). 6. Barber and Beauty shop. 7. Bicycle shop. 8. Book store, not including uses defined in Adult Establishment. 9. Brew-on premises store. 10. Camera store. 11. Communication services. 12. Computer store. 13. Confectionery. 14. Dairy products sales. 15. Drug store. 16. Dry cleaning and laundry pickup. 17. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment. 18. Food Sales (Limited). 19. Food Sales (General). 20. Floral shop.

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21. Mortuary.
22. Furniture store or showroom.
23. Gift and curio shop.
24. Gunsmith.
25. Hardware store.
26. Hobby, craft, toy store.
27. Jewelry store.
28. Liquor store in conformance with Section 5.10.07.
29. Locksmith.
30. Meat market, retail.
31. Music retail store.
32. Newsstands, not including uses defined in Adult Establishment.
33. Paint store.
34. Photographer.
35. Picture framing shop.
36. Reservation center.
37. Restaurants: Sit-Down, Fast Casual, and Fast Food.
38. Second hand stores.
39. Shoe store.
40. Smoke shop and tobacco store in conformance with Section 5.10.07.
41. Sporting goods.
42. Stamp and coin stores.
43. Tailors and dressmakers.
44. Tanning salon.
45. Travel agencies.
46. Video store, not including uses defined in Adult Establishment.
47. Social club and fraternal organizations, not including uses defined in Adult Establishment.
48. Telephone exchange.
49. Telephone answering service.
50. Public overhead and underground local distribution utilities.
51. *Publicly owned and operated facilities. (Ordinance No. 950, 3-1-05)*
52. *Adult Day Care Services (Ordinance No. 1328, 9-18-18)*
53. *Tutoring and Exam Preparation Services (Ordinance No. 1341, 2-5-19)*
54. *Personal Services, not including uses defined in Adult Entertainment Establishment. (Ordinance No. 1369, 10-1-19)*

## 5.10.03 Permitted Conditional Uses:

- 5.10.03.01 Recreational establishments.
- 5.10.03.02 Department Store.
- 5.10.03.03 Variety store, not including uses defined in Adult Establishment.
- 5.10.03.04 Amusement arcades.
- 5.10.03.05 Brew Pubs.
- 5.10.03.06 Coffee Kiosks.
- 5.10.03.07 Microbreweries when in conjunction with a restaurant.
- 5.10.03.08 Automated Teller Machines when not within the interior of a primary use.
- 5.10.03.09 Theater, indoor, not including uses defined in Adult Establishment.
- 5.10.03.10 Bowling center.
- 5.10.03.11 Business or trade school.
- 5.10.03.12 Commercial greenhouse.
- 5.10.03.13 Mail order services.
- 5.10.03.14 Pinball or video games business.
- 5.10.03.15 Tavern and cocktail lounge, not including uses defined in Adult Establishment.
- 5.10.03.16 Totally enclosed, automated and conveyor-style car washes.
- 5.10.03.17 Convenience store with limited fuel sales.
- 5.10.03.18 Garden supply and retail garden center.
- 5.10.03.19 Outdoor storage in conjunction with another primary use.
- 5.10.03.20 Pet Health Services, provided the following:
  1. Said use is totally enclosed within a building.
  2. Said services shall be provided for dogs, cats, birds, fish, and similar small animals customarily used as household pets.
  3. Typical uses include animal veterinary clinics with overnight boarding, only if medically necessary, not exceeding 48 hours.
  4. Grooming shall only be associated with medical appointment.
  5. This excludes uses for livestock and other large animals and uses for general grooming, dog bathing and clipping salons.

*5.10.03.21 Self-storage units, provided:*

1. *Storage unit is an extension of an existing self-storage unit or facility.*
2. *The topography and access of the property will limit the development of identified commercial uses.*
3. *No outdoor storage.*

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4. *Unit or facility provides perimeter fencing in accordance with this ordinance and a vegetative screen of at least six (6) feet in height and twenty (20) feet in width to any adjacent residential zoned property.*
5. *Lighting on site shall not be directed at or allowed to shine on any residential zoned property.*
6. *Applications for self-storage units under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its affect on surrounding property and shall include a site plan defining the areas to be developed with buildings and/or structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls and fences, the location and type of landscaping, and the location, size and number of signs.*
7. *Such use shall not be located adjacent to the intersection of two or more arterial streets.*
8. *The property shall have at least one boundary line that is adjacent to other property that is zoned I-1 Light Industrial or I-2 Heavy Industrial.*
9. *Such use shall not include storage of explosives or hazardous materials and shall be in accordance with the intent, purpose and spirit of this ordinance and the Comprehensive Development Plan of La Vista, Nebraska.*

*(Ordinance No. 954, 7-5-05)*

5.10.03.22

*Event center, provided:*

1. *A conditional use permit would need to include specifics to the design and operation of the proposed center and individual activities, including, but not limited to, a detailed site plan and floor plan, a complete list of appointed or designated managers for each event at the center, and a complete description and duration of each event submitted to the city prior to each event.*
2. *Lighting on site shall not be directed at or allowed to shine on any residential zoned property.*
3. *Buildings utilized as event centers shall be accompanied by evidence concerning the feasibility of the proposed request and its affect on surrounding property and shall include a site plan defining the areas to be developed with buildings and/or structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls and fences, the location and type of landscaping, and the location, size and number of signs.*
4. *All signage shall comply with the City's established regulations.*

*(Ordinance No. 955, 7-19-05)*

5.10.03.23

*Animal Specialty Services with or without overnight boarding of animals and outdoor exercise areas. (Ordinance No. 1253, 6-16-15)*

5.10.03.24

*Pet Shop. (Ordinance No. 1253, 6-16-15)*

## 5.10.04 Permitted Accessory Uses:

5.10.04.01 Buildings and uses customarily incidental to the permitted uses.  
5.10.04.02 Parking as allowed in Section 7.05 through 7.09.  
5.10.04.03 Signs allowed in Section 7.01 through 7.04.  
5.10.04.04 Landscaping as required by Section 7.17.  
5.10.04.05 Solar Energy Conversion Systems as provided for in Section 7.15. *(Ordinance No. 1389, 3-3-2020)*

## 5.10.05 Permitted Temporary Uses

Temporary Uses require a permit from the City of La Vista and shall be valid only for a specific amount of time as indicated on said permit. *All platted lots or tracts of land may have a maximum number of four (4) temporary uses per calendar year. Such uses shall not last more than two (2) weeks per use, except as provided for hereafter. (Ordinance No. 998, 7-18-06)*

5.10.05.01 Temporary greenhouses.  
5.10.05.02 Temporary structures as needed for sidewalk and other outdoor sales events.  
5.10.05.03 Fireworks stands, provided the criteria are met as established by the City through separate Ordinances.  
5.10.05.04 Buildings and uses incidental to construction work *are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed. (Ordinance No. 998, 7-18-06)*  
5.10.05.05 Temporary structure for festivals or commercial events.

## 5.10.06 Height and Lot Requirements:

5.10.06.01 The height and minimum lot requirements shall be as follows:

Uses Permitted Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
	-	150'	25' <sup>1</sup>	10'	25'	45'	60%

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Permitted Conditional Uses	-	150'	25' <sup>1</sup>	10'	25'	45'	60%
	1.	25' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of fifty (50) feet.					

## 5.10.07 Use Limitations:

5.10.07.01 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district.

5.10.07.02 Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.17.04.

5.10.07.03 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

5.10.07.04 Zoning and land use standards for smoke shops, tobacco stores, and liquor stores shall be as follows:

- The grouping of age sensitive uses (such as smoke shops, tobacco stores, and liquor stores) shall be discouraged, and such uses shall be compatible with surrounding uses.
- Smoke shops, tobacco stores, and liquor stores shall not be located within three hundred (300) feet, measured property line to property line, from a school (public or private), family day care home, child care facility, youth center, community center, recreational facility or any other facility where children regularly gather or are present, or any park, church, religious institution, hospital, or other similar facility or uses.
- Smoke shops, tobacco stores, and liquor stores shall not be located within one thousand (1,000) feet, measured from property line to property line, from another smoke shop, tobacco store, or liquor store in the same zoning district.
- Section 5.11 C-2 General Commercial District

**5.11.01 Intent:** The General Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community. In addition, this district prohibits all exterior storage by a primary use unless a separate Conditional Use Permit is requested for the use and granted by the City.

## 5.11.02 Permitted Uses:

5.11.02.01 *Medical/dental offices and business services including: attorneys, banks, insurance, real estate offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, finance services and investment services; but not including uses defined in Adult Establishment. (Ordinance No. 950, 3-1-05)*

5.11.02.02 Child care center.

5.11.02.03 Dance studio, not including uses defined in Adult Establishment.

5.11.02.04 Meeting hall, not including uses defined in Adult Establishment.

5.11.02.05 Museum, art gallery.

5.11.02.06 Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:

1. Apparel shop.
2. Appliance store.
3. Antique store.
4. Automobile parts and supply store.
5. Bakery shop (retail).
6. Barber and Beauty shop.
7. Bicycle shop.
8. Book store, not including uses defined in Adult Establishment.
9. Brew-on premises store.
10. Camera store.
11. Communication services.
12. Computer store.
13. Confectionery.
14. Dairy products sales.
15. Drug store.
16. Dry cleaning and laundry pickup.
17. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment.
18. Floral shop.
19. Mortuary.
20. Food Sales (Limited).
21. Food Sales (General).
22. Furniture store or showroom.
23. Gift and curio shop.
24. Gunsmith.
25. Hardware store.

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- 26. Hobby, craft, toy store.
- 27. Jewelry store.
- 28. Liquor store in conformance with Section 5.11.07.03.
- 29. Locksmith.
- 30. Meat market, retail.
- 31. Music retail store.
- 32. Music studio.
- 33. Newsstands, not including uses defined in Adult Establishment.
- 34. Paint store.
- 35. Photographer.
- 36. Picture framing shop.
- 37. Reservation center.
- 38. Restaurants: Sit-Down, Fast Casual, and Fast Food.
- 39. Second hand stores.
- 40. Shoe store.
- 41. Sporting goods.
- 42. Stamp and coin stores.
- 43. Tailors and dressmakers.
- 44. Tanning salon.
- 45. Travel agencies.
- 46. Video store, not including uses defined in Adult Establishment.
- 47. Social club and fraternal organizations, not including uses defined in Adult Establishment.
- 48. Telephone exchange.
- 49. Telephone answering service.
- 50. Theater, indoor, not including uses defined in Adult Establishment.
- 51. Public overhead and underground local distribution utilities.
- 52. *Publicly owned and operated facilities. (Ordinance No. 950, 3-1-05)*
- 53. *Tutoring and Exam Preparation Services (Ordinance No. 1341, 2-5-19)*
- 54. *Personal Services, not including uses defined in Adult Entertainment Establishment. (Ordinance No. 1369, 10-1-19)*

## 5.11.03 Permitted Conditional Uses:

- 5.11.03.01 Recreational establishments.
- 5.11.03.02 Variety store, not including uses defined in Adult Establishment
- 5.11.03.03 Amusement arcades.
- 5.11.03.04 Bowling center.
- 5.11.03.05 Brew Pubs.
- 5.11.03.06 Microbreweries when in conjunction with a restaurant.
- 5.11.03.07 Coffee Kiosks.
- 5.11.03.08 Automated Teller Machines when not within the interior of a primary use.
- 5.11.03.09 Business or trade school.
- 5.11.03.10 Garden supply and retail garden center.
- 5.11.03.11 Commercial greenhouse.
- 5.11.03.12 Mail order services.
- 5.11.03.13 Pinball or video games business.
- 5.11.03.14 Tavern and cocktail lounge, not including uses defined in Adult Establishment.
- 5.11.03.15 Totally enclosed, automated and conveyor-style car washes.
- 5.11.03.16 Convenience store with limited fuel sales.
- 5.11.03.17 Residences in conjunction with the principal use when located above the ground floor.
- 5.11.03.18 Churches, temples, seminaries, and convents including residences for teachers and pastors.
- 5.11.03.19 Car wash.
- 5.11.03.20 Retail building material sales; provided that the following minimum standards are present:
  1. All lumber shall be enclosed with the primary structure.
  2. All year round landscaping materials shall be enclosed within the primary structure.
  3. All outdoor storage shall be temporary and shall comply with the provisions for Temporary Uses, as per this Ordinance.
- 5.11.03.21 Service station with minor automobile repair services.
- 5.11.03.22 Tire store and minor automobile repair service.
- 5.11.03.23 *Animal Specialty Services with or without overnight boarding of animals and outdoor exercise areas. (Ordinance No. 1254, 6-16-15)*
- 5.11.03.24 *Pet Shop. (Ordinance No. 1254, 6-16-15)*
- 5.11.03.25

## 5.11.04 Permitted Temporary Uses

Temporary Uses require a permit from the City of La Vista and shall be valid only for a specific amount of time as indicated on said permit. *All platted lots or tracts of land may have a maximum*

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number of four (4) temporary uses per calendar year. Such uses shall not last more than two (2) weeks per use, except as provided for hereafter. (*Ordinance No. 998, 7-18-06*)

- 5.11.04.01 Temporary greenhouses.
- 5.11.04.02 Temporary structures as needed for sidewalk and other outdoor sales events.
- 5.11.04.03 Fireworks stands, provided the criteria are met as established by the City through separate Ordinances.
- 5.11.04.04 Buildings and uses incidental to construction work are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed. (*Ordinance No. 998, 7-18-06*)
- 5.11.04.05 Temporary structure for festivals or commercial events.

## 5.11.05 Permitted Accessory Uses

- 5.11.05.01 Buildings and uses customarily incidental to the permitted uses.
- 5.11.05.02 Parking as permitted in Section 7.05 through 7.09.
- 5.11.05.03 Signs allowed in Section 7.01 through 7.04.
- 5.11.05.04 Landscaping as required by Section 7.17.
- 5.11.05.05 Solar Energy Conversion Systems as provided for in Section 7.15 (*Ordinance No. 1389, 3-3-2020*)

## 5.11.06 Height and Lot Requirements:

- 5.11.06.01 The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000	-	25' <sup>1</sup>	15'	15'	45'	60%
Permitted Conditional Uses	10,000	-	25' <sup>1</sup>	15'	15'	45'	60%

<sup>1</sup>. 25' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of fifty (50) feet.

## 5.11.07 Use Limitations:

- 5.11.07.01 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.14.04.
- 5.11.07.02 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
- 5.11.07.03 Zoning and land use standards for liquor stores shall be as follows:
  - Liquor stores shall not be located within three hundred (300) feet, measured property line to property line, from a school (public or private), family day care home, child care facility, youth center, community center, recreational facility or any other facility where children regularly gather or are present, or any park, church, religious institution, hospital, or similar facility or uses.
  - Liquor stores shall not be located within one thousand (1,000) feet, measured from property line to property line, from another liquor store in the same zoning district.

## Section 5.12 C-3 Highway Commercial / Office Park District

**5.12.01 Intent:** The Highway Commercial / Office Park District is intended for large scale commercial and office park development that serve as a regional draw, with new-to-market commercial businesses and office tenants, creating a distinctively unique commercial district. In addition, this district prohibits all exterior storage by a primary use unless a separate Conditional Use Permit is requested for the use and granted by the City.

## 5.12.02 Permitted Uses:

- 5.12.02.01 General office use types, including: medical/dental offices, architectural, engineering, and consulting services, and business services including: attorneys, banks, insurance, real estate offices, postal stations, credit services, security brokers, dealers and exchange, title abstracting, finance services and investment services; but not including uses defined in Adult Establishment. (*Ordinance No. 950, 3-1-05*)
- 5.12.02.02 Museum, art gallery, aquarium, or planetarium.
- 5.12.02.03 Entertainment Venue, indoor, not including uses defined in Adult Establishment. (*Ordinance No. 1219, 7-15-14*)
- 5.12.02.04 Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
  1. Book store, not including uses defined in Adult Establishment.
  2. Brew-on premises store.
  3. Dry cleaning and laundry pickup.
  4. Floral shop.
  5. Gift and curio shop.

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6. Jewelry store.
7. Travel agencies and reservation centers.
8. Restaurants: Sit-Down, Fast Casual, and Fast Food.
9. Amusement, Commercial Indoor, not including uses defined in Adult Establishment.
10. Office Park developments.
11. Drug Store.
12. Meeting Halls not including Adult Establishments.
13. Theater, indoor, not including uses defined in Adult Establishment.  
*(Ordinance No. 1219, 7-15-14)*
14. Coffee kiosks. *(Ordinance No. 1219, 7-15-14)*
15. Department stores. *(Ordinance No. 1219, 7-15-14)*
16. Retail trade centers. *(Ordinance No. 1219, 7-15-14)*
17. Shopping centers. *(Ordinance No. 1219, 7-15-14)*
18. Commercial strip shopping center. *(Ordinance No. 1219, 7-15-14)*
19. Tutoring and Exam Preparation Services **(Ordinance No. 1341, 2-5-19)**
20. Personal Services, not including uses defined in Adult Entertainment Establishment. **(Ordinance No. 1369, 10-1-19)**
21. Specialty Food Store.

## **5.12.02.05** *Publicly owned and operated facilities. (Ordinance No. 950, 3-1-05)*

5.12.02.06 Mixed Use, Commercial (Office Units over Storefronts)

## **5.12.03** **Permitted Conditional Uses:**

- 5.12.03.01 Automobile display, sales, service, and repair.
- 5.12.03.02 Brew Pubs.
- 5.12.03.03 Microbreweries when in conjunction with a restaurant.
- 5.12.03.04 Entertainment Venue, indoor, but which may include outdoor events, not including uses defined in Adult Establishment. *(Ordinance No. 1219, 7-15-14)*
- 5.12.03.05 Automated Teller Machines when not within the interior of a primary use.
- 5.12.03.06 Tavern, nightclub, and cocktail lounge, not including uses defined in Adult Establishment.
- 5.12.03.07 Convenience store with limited fuel sales.
- 5.12.03.08 Churches and temples.
- 5.12.03.09 Hotels, including restaurants, convention and meeting facilities and other related uses, not including uses defined in Adult Establishment.
- 5.12.03.10 Outlet Shopping Center.
- 5.12.03.11 Health Clubs and tanning salon, not including uses defined in Adult Establishment.
- 5.12.03.12 Recreation Facilities, not including uses defined in Adult Establishment.
- 5.12.03.13 *Child Care Center. (Ordinance No. 1041, 7-17-07)*
- 5.12.03.14 *Colleges and Universities. (Ordinance No. 1169, 3-6-12)*

## **5.12.04** **Permitted Temporary Uses**

Temporary Uses require a permit from the City of La Vista and shall be valid only for a specific amount of time as indicated on said permit. *All platted lots or tracts of land may have a maximum number of four (4) temporary uses per calendar year. Such uses shall not last more than two (2) weeks per use, except as provided for hereafter. (Ordinance No. 998, 7-18-06)*

- 5.12.04.01 Temporary greenhouses.
- 5.12.04.02 Temporary structures as needed for sidewalk and other outdoor sales events.
- 5.12.04.03 Fireworks stands, provided the criteria are met as established by the City through separate Ordinances.
- 5.12.04.04 Buildings and uses incidental to construction work *are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed. (Ordinance No. 998, 7-18-06)*
- 5.12.04.05 Temporary structure for festivals or commercial events.

## **5.12.05** **Permitted Accessory Uses**

- 5.12.05.01 Buildings and uses customarily incidental to the permitted uses.
- 5.12.05.02 Parking as permitted in Section 7.05 through 7.09.
- 5.12.05.03 Signs allowed in Section 7.01 through 7.04.
- 5.12.05.04 Landscaping as required by Section 7.17.
- 5.12.05.05 Solar Energy Conversion Systems as provided for in Section 7.15. *(Ordinance No. 1389, 3-3-2020)*

## **5.12.06** **Height and Lot Requirements:**

5.12.06.01 The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000	-	25' <sup>1</sup>	15'	15'	90' <sup>2</sup>	60%
Permitted Conditional Uses	10,000	-	25' <sup>1</sup>	15'	15'	90' <sup>2</sup>	60%

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1. 25' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of fifty (50) feet.
2. *Any building within 100 feet of a residentially zoned district shall not exceed 45 feet in height. (Ordinance No. 1082, 11-18-08)*

## 5.12.07 Use Limitations:

5.12.07.01	When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.14.04.
5.12.07.02	Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

## Section 5.13 I-1 Light Industrial.

**5.13.01 Intent:** *It is the intent of the Light Industrial District Regulations to provide for limited industrial uses and services, including some retail businesses, wholesaling, and storage activities; to preserve land for the expansion of basic economic activities; to avoid incompatible land uses, to serve these areas with adequate transportation facilities, and to prevent or mitigate hazards to adjacent properties. (Ordinance No. 1053, 1-15-08)*

### 5.13.02 Permitted Uses: (Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted)

5.13.02.01	Light Manufacturing
5.13.02.02	Automotive services, except repair, towing and wrecking
5.13.02.03	Business services
5.13.02.04	Facilities for building construction contractors
5.13.02.05	Landscape and horticultural services
5.13.02.06	Medical and dental laboratories
5.13.02.07	Assembly of electrical and electronic appliances
5.13.02.08	Miscellaneous repair services, not including automotive
5.13.02.09	Printing, publishing, and allied industries
5.13.02.10	Electric, gas and sanitary services, not including collection and disposal of solid waste or hazardous waste
5.13.02.11	General warehousing
5.13.02.12	Testing laboratories
5.13.02.13	Publicly owned and operated facilities (Ordinance No. 950, 3-1-05)
5.13.02.14	Special and vocational training facilities (Ordinance No. 950, 3-1-05)
5.13.02.15	Wholesale trade of goods
5.13.02.16	Microbreweries and microdistilleries without on-site sales (Ordinance No. 1292, 9-6-16)
5.13.02.17	Artist Studio Space

### 5.13.03 Permitted Conditional Uses: (Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted)

5.13.03.01	Animal specialty services with or without overnight boarding of animals and outdoor exercise areas
5.13.03.02	Heavy equipment rental
5.13.03.03	Household furniture, furnishings, and equipment store
5.13.03.04	Hardware, lawn and garden supply store
5.13.03.05	Lumber and other building materials dealer
5.13.03.06	Outdoor display of merchandise
5.13.03.07	Radio, television and communication towers and transmitters, as per Section 7.11
5.13.03.08	Utility substations, terminal facilities, and reservoirs
5.13.03.09	Farm-implement sales and service
5.13.03.10	Cabinetry millwork
5.13.03.11	Gasoline service stations
5.13.03.12	Automotive repair services
5.13.03.13	Sale of recreational vehicles, including boats and jet skis
5.13.03.14	Indoor recreational facility (Ordinance No. 918, 10-6-03)
5.13.03.15	Veterinary Services, not including livestock
5.13.03.16	Self-service storage facility (Ordinance No. 1069, 8-19-08)
5.13.03.17	Industrial Condominiums (Ordinance No. 1246, 4-21-15)
5.13.03.18	Microbreweries and microdistilleries with on-site sales (Ordinance No. 1292, 9-6-16)
5.13.03.19	Ground-Mounted Solar Energy Conversion Systems outside of the rear yard, as provided for in Section 7.15. (Ordinance No. 1389, 3-3-2020)

### 5.13.04 Permitted Accessory Uses

5.13.04.01	Buildings and uses customarily incidental to the permitted uses
5.13.04.02	Parking as permitted in Section 7.05 through 7.09
5.13.04.03	Signs allowed in Section 7.01 through 7.04

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5.13.04.04      Temporary buildings and uses incidental to construction work that will be removed upon completion or abandonment of the construction work  
5.13.04.05      Landscaping as required by Section 7.17  
5.13.04.06      Solar Energy Conversion Systems as provided for in Section 7.15. (*Ordinance No. 1389, 3-3-2020*)

## 5.13.05 Height and Lot Requirements:

5.13.05.01      The height and minimum lot requirements shall be as follows:

Use	Lot Area (SF) <sup>2</sup>	Lot Width <sup>2</sup>	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000	100	35 <sup>1</sup>	30'	25'	45'	65%
Permitted Conditional Uses	10,000	100	35 <sup>1</sup>	30'	25'	45'	65%
Accessory Buildings	-	-	-	70'	10'	10'	25'

<sup>1</sup> 35' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of sixty (60) feet.

<sup>2</sup> *Lots created before January 1, 2008 may have a minimum Lot Area of 10,000 square feet and may have less than the minimum 100 feet lot width. (Ordinance No. 1053, 1-15-08)*

## 5.13.06 Use Limitations:

5.13.06.01      When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within *thirty (30)* feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.17.04. (*Ordinance No. 1053, 1-15-08*)

5.13.06.02      No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.

5.13.06.03      Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

5.13.06.04      *No use shall produce a nuisance or hazard from fire, explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent, or electrical interference which may affect or impair the normal use and peaceful enjoyment of any surrounding property, structure, or dwelling. (Ordinance No. 1053, 1-15-08)*

## 5.13.07 Performance Standards:

See Section 7.16 of the Supplemental Regulations.

## Section 5.14 I-2 Heavy Industrial

**5.14.01 Intent:** *It is the intent of the Heavy Industrial District Regulations to provide for industrial uses and services, including some manufacturing, wholesaling and storage activities; to preserve land for the expansion of the basic economic activities; to avoid incompatible land uses; to serve these areas with adequate transportation facilities; and to prevent or mitigate hazards to adjacent properties. (Ordinance No. 1053, 1-15-08)*

Adult Entertainment Facilities are included in this Zoning District. The intent of the La Vista Zoning Ordinance is not to prohibit these uses but to regulate the secondary effects of these uses within the community.

## 5.14.02 Permitted Uses: (*Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted*)

5.14.02.01      Assembly, fabrication, packaging, and processing of products inside an enclosed building, except hazardous or toxic materials

5.14.02.02      Automotive services, except repair, towing and wrecking

5.14.02.03      Business services

5.14.02.04      Data Center

5.14.02.05      Facilities for building construction contractors

5.14.02.06      Landscape and horticultural services

5.14.02.07      Medical and dental laboratories

5.14.02.08      Miscellaneous repair services, not including automotive

5.14.02.09      Printing, publishing, and allied industries

5.14.02.10      Electric, gas and sanitary services, not including collection and disposal of solid waste or hazardous waste

5.14.02.11      General warehousing

5.14.02.12      Testing laboratories

5.14.02.13      Facilities for heavy construction contractors

5.14.02.14      Manufacturing of apparel, textile mill products, furniture and fixtures, transportation equipment, and assembly of electrical and electronic equipment and components

5.14.02.15      Manufacture of light sheet metal products including heating and ventilation equipment.

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5.14.02.16	Manufacturing of food and kindred products, limited to bakery items, dairy products, sugar and confectionary products, and beverages
5.14.02.17	Manufacturing stone, clay, glass and concrete products
5.14.02.18	Millwork; veneer, plywood and structural wood products manufacturing
5.14.02.19	Publicly owned and operated facilities. ( <i>Ordinance No. 950, 3-1-05</i> )
5.14.02.20	Special and vocational educational and training facilities. ( <i>Ordinance No. 950, 3-1-05</i> )
5.14.02.21	Transportation services
5.14.02.22	Trucking and courier services, except air
5.14.02.23	Veterinary Services, including livestock
5.14.02.24	Wholesale trade of goods
5.14.02.25	Microbreweries and microdistilleries without on-site sales ( <i>Ordinance No. 1292, 9-6-16</i> )

## 5.14.03 Permitted Conditional Uses: (*Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted*)

5.14.03.01	Automotive rental / leasing and other heavy equipment rental
5.14.03.02	Manufacturing of food and kindred products, except bakery items, dairy products, sugar and confectionary products, and beverages
5.14.03.03	Lumber and other building materials dealer
5.14.03.04	Outdoor storage or display of merchandise
5.14.03.05	Radio, television and communication towers and transmitters, as per Section 7.11
5.14.03.06	Utility substations, terminal facilities, and reservoirs
5.14.03.07	Farm-implement sales and service
5.14.03.08	Temporary Batch plant for concrete, asphalt, or paving material, not to exceed 24 months of operations
5.14.03.09	Cabinetry millwork
5.14.03.10	Recycling center for computers, televisions and household items
5.14.03.11	Storage of bulk petroleum products
5.14.03.12	The manufacturing, compounding, processing, extruding, painting, coating and assembly of steel, metal, vinyl, plastic, paper and similar products and related outdoor and indoor storage activities. ( <i>Ordinance No. 855, 3-5-02</i> )
5.14.03.13	Gasoline service stations
5.14.03.14	Automotive repair services
5.14.03.15	Sale of recreational vehicles, including boats and jet skis
5.14.03.16	Indoor recreational facility ( <i>Ordinance No. 918, 10-6-03</i> )
5.14.03.17	Self-service storage facility ( <i>Ordinance No. 1069, 8-19-08</i> )
5.14.03.18	Adult Entertainment establishments
1.	No Adult business shall be closer than 500 feet to any similar use and no closer than 500 feet to a residential district / use, religious uses, educational uses and recreational uses. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the point on the property line of such other adult business, residential district / use, religious use, educational uses and recreational use. In addition, no Adult establishment shall be located within the Gateway Corridor Overlay or within 500 feet of said Overlay Corridor.
2.	Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.
3.	Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
4.	No adult business shall be open for business between the hours of one am and six a.m.
5.	The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
6.	Such use shall not impair an adequate supply of light and air to surrounding property.
7.	Such use shall not unduly increase congestion in the streets or public danger of fire and safety.
8.	Any explicit signs shall not be seen from any point off-premises.
9.	Such use shall not diminish or impair established property values in adjoining or surrounding property.
10.	Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of La Vista, Nebraska.
11.	Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining

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the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.

12. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of eighteen (18) years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
13. Prohibited Activities of Adult Businesses
  - A. No adult business shall employ any person less than eighteen (18) years of age.
  - B. No adult business shall furnish any merchandise or services to any person who is under eighteen (18) years of age.
  - C. No adult business shall be conducted in any manner that permits the observation of any model 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 business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.
  - D. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.

5.14.03.19 Industrial Condominiums (*Ordinance No. 1247, 4-21-15*)  
5.14.03.20 Microbreweries and microdistilleries with on-site sales (*Ordinance No. 1292, 9-6-16*)  
5.14.03.21 Concrete Batch Plants (*Ordinance No. 1329, 9-19-18*)  
5.14.03.22 Ground-Mounted Solar Energy Conversion Systems outside of the rear yard, as provided for in Section 7.15. (*Ordinance No. 1389, 3-3-2020*)

#### 5.14.04 Permitted Accessory Uses:

5.14.04.01 Buildings and uses customarily incidental to the permitted uses  
5.14.04.02 Parking as permitted in Section 7.05 through 7.09  
5.14.04.03 Signs allowed in Section 7.01 through 7.04  
5.14.04.04 Temporary buildings and uses incidental to construction work which will be removed upon completion or abandonment of the construction work  
5.14.04.05 Live-in quarters used by live-in watchman or custodians during periods of construction  
5.14.04.06 Landscaping as required by Section 7.17  
5.14.04.07 Solar Energy Conversion Systems as provided for in Section 7.15. (*Ordinance No. 1389, 3-3-2020*)

#### 5.14.05 Height and Lot Requirements:

5.14.05.01 The height and minimum lot requirements shall be as follows:

Use	Lot Area (SF) <sup>2</sup>	Lot Width <sup>2</sup>	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000	100	35' <sup>1</sup>	30'	25'	45'	75%
Permitted Conditional Uses	10,000	100	35' <sup>1</sup>	30'	25'	45'	75%
Accessory Buildings	-	-	70'	10'	10'	25'	20%

<sup>1</sup> 35' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of sixty (60) feet.

<sup>2</sup> Lots created before January 1, 2008 may have a minimum Lot Area of 10,000 square feet and may have less than the minimum 100 feet lot width. (*Ordinance No. 1053, 1-15-08*)

#### 5.14.06 Use Limitations:

5.14.06.01 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within thirty (30) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.17.04. (*Ordinance No. 1053, 1-15-08*)  
5.14.06.02 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.  
5.14.06.03 No use shall produce a nuisance or hazard from fire, explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent, or electrical interference which may affect or impair the normal use and peaceful enjoyment of any surrounding property, structure, or dwelling. (*Ordinance No. 1053, 1-15-08*)

#### 5.14.07 Performance Standards:

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See Section 7.16 of the Supplemental Regulations.

## **Section 5.15 PUD PLANNED UNIT DEVELOPMENT DISTRICT (Overlay District)**

**5.15.01 Intent:** The intent of the PUD District is to encourage creative design in buildings, open space, and their inter-relationship while protecting the health, safety, and general welfare of existing and future residents of surrounding neighborhoods.

The PUD District is an overlay zone. Although the specific conditions within this district are predetermined, the location of a proposed district must be carefully reviewed to assure that these conditions can be met. A specific PUD site plan shall be submitted by each applicant for "PUD" zoning in accordance with the provisions and conditions that follow.

**5.15.02 Recommendation, findings of fact and development sizes**

The planning commission, in its minutes, shall set forth its reasons for recommendation of approval or denial of the application for a PUD District, along with specific evidence and facts showing that the proposal meets or does not meet the following conditions.

- 5.15.02.01 Said planned unit development shall be in general conformity with the provisions of the La Vista Comprehensive Plan.
- 5.15.02.02 Said planned unit development shall not have a substantially adverse effect on the development of the neighboring area.
- 5.15.02.03 The minimum size allowed for a PUD District shall be 3 acres.
- 5.15.02.04 Permitted uses, lot sizes, height limits, bulk, density, parking, and setback requirements may be varied so as to promote an efficient and creative PUD District.

**5.15.03 Use regulations.**

All uses in the underlying zoning district may be permitted or conditionally permitted, unless certain uses are limited by City Council. Additionally, other uses (outside the underlying zoning district) may be allowed by City Council to promote mixed-use development.

**5.15.04 Standards and conditions for development.**

A planned unit development shall be consistent with the following general standards for use of land, and the use, type, bulk, and location of buildings, the density or intensity of use, open space, and public facilities.

- 5.15.04.01 The applicant shall submit a schedule of construction. The proposed construction shall begin within a period of twelve (12) months following the approval of the application by the City Council. Upon request, the Community Development Department may grant an additional twelve (12) month extension for the start of construction provided:
  - 5.15.04.01.1 The character (including uses, parking conditions, traffic, and others) of the area in which the development as approved has not changed significantly;
  - 5.15.04.01.2 The applicant has made some effort to follow through with said construction or there were circumstances that slowed the applicants' progress; and
  - 5.15.04.01.3 If the administrative extension of the second twelve (12) month period has lapsed without the construction of such development; or, if staff deems the character of the area has changed within the initial twelve (12) month period, the applicant shall be required to reapply to both the Planning Commission and City Council for further approval(s).
- 5.15.04.02 A minimum of fifty (50) percent of the total planned construction shown on the final plan shall be completed within a period of five (5) years following such approval or the PUD plan shall expire. The period of time established for the completion of the development may be modified from time to time by the City Council upon review and recommendation by the Planning Commission upon the showing of good cause by the developer.
- 5.15.04.03 The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees for public improvements as may be determined by the City Council to be reasonably required to assure performance in accordance with the development plan and to protect the public interest in the event of abandonment of said plan before completion.
- 5.15.04.04 The site shall be accessible from public roads and/or private roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development.
- 5.15.04.05 The development shall not impose an undue burden on public services and facilities, such as fire and police protection.
- 5.15.04.06 The entire tract or parcel of land to be occupied by the planned unit development shall be held in single ownership or control, or if there are two (2) or more owners, the application for such planned unit development shall be filed jointly by all owners.

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5.15.04.07 The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a planned unit development not used for structures, parking and loading areas, or access ways shall be landscaped or left as common open space.

5.15.04.08 Adequate parking shall be provided for each building and use as per the regulations of the underlying zoning district. Planned Unit Development (PUD) plans may reduce the minimum parking requirements, in Section 7.06, if parking is shared by more than one land use or business.

5.15.04.09 PUD Districts shall abide by Section 7.17 (Landscaping Requirements) of this ordinance to ensure suitable screening between developments is maintained.

5.15.04.10 Except for the MU-CC district, all residential, commercial, and industrial buildings shall set back not less than twenty-five (25) feet from the right-of-way of any street and ten (10) feet from any district boundary lines that do not abut a street right-of-way. *PUD's within the MU-CC district shall abide by the setbacks of that district.* Additional setback from a heavily traveled thoroughfare may be required, when found reasonable by the Planning Commission and City Council for the protection of health, safety, and general welfare.

5.15.04.11 Except for the MU-CC district, building coverage shall not exceed the following percentages of the net developable area of each individual parcel of the total development for each type of planned unit development:  
Residential, forty (40) percent maximum.  
Commercial, sixty (60) percent maximum. (*Ordinance No. 882, 11-19-02*)  
Industrial, sixty-five (65) percent maximum. (*Ordinance No. 882, 11-19-02*)  
*Uses within the MU-CC District, no requirement.*

5.15.04.12 Except for the MU-CC district, a minimum of thirty (30) percent of the net area of that part of a planned unit development reserved for residential use shall be provided for open space as defined by these regulations under Section 5.15.04.16 below. Common open space for the leisure and recreation shall be maintained, through a homeowner's association or other approved entity. (*Ordinance No. 950, 3-1-05*) **Open** space as defined under this zoning district shall mean land area of the site not covered by buildings, parking, structures, or accessory structures, except recreational structures. Common open space as defined under this zoning district shall mean open space which is accessible and available to all occupants or their guests.

5.15.04.13 The PUD District shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to insure its continuity, care, conservation, and maintenance, and to insure that remedial measures will be available to the City Council if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the planned unit development or of the entire community.

5.15.04.14 No single family residential lot shall have direct access onto an arterial street.

5.15.04.15 All commercial areas must have access via a collector or arterial street; however, no individual commercial use may have direct access onto collector or arterial streets, unless the access is shared among more than one lot or building.

5.15.04.16 Sidewalks shall be built to City specifications along all public and private streets; however, an alternative pedestrian and sidewalk plan may be required which provides pedestrian access between each building or use in the planned unit development.

5.15.04.17 When a developer intends to design a new concept development, the Planning Commission and City Council may grant lesser front, side, and rear yard setbacks, including zero (0) lot line setbacks.

5.15.04.18 Architectural design and style are not restricted; however architectural style should be consistent throughout the PUD District. See Gateway Corridor District Design Guideline Booklet for examples of developments considered meeting this concept. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.

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

5.15.04.20 All building within the PUD District shall use harmonious colors and shall use only compatible accents.

5.15.04.21 Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.

5.15.04.22 Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be directed downward and excessive brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas (i.e. Dark Sky compliant.)

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5.15.04.23 Developments within the MU-CC District are exempt from Sections 5.15.04.17 through 5.15.04.21 of this ordinance.

## 5.15.05 Application for approval of PUD plan.

5.15.05.01 An application for a PUD shall be handled in the same manner prescribed for amending this Ordinance. The same requirements for notice, advertisement of public hearing, protests, and adoption shall be required as zoning changes.

5.15.05.02 The applicant shall prepare the PUD plan for review and approval by the planning commission. Said PUD plan shall include a site plan showing:

1. Contours at intervals of two (2) feet or spot elevations on a one hundred (100) foot grid shall be required on flat land;
2. Location, size, height, and use of all proposed structures in conformance with the yard requirements;
3. All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas;
4. All pedestrian sidewalks and walkways for internal circulation among buildings within the PUD as well as existing and proposed perimeter sidewalks.
5. All streets adjoining subject property and the width of the existing right-of-way;
6. Areas set aside for public and private open space with the type of recreational facilities planned for each;
7. Designation of individual parcels if the proposed development is to be set up in separate construction phases;
8. Designation of individual lots if such lots are proposed to be sold to individual owners;
9. Location of required screening;
10. Location of natural features such as ponds, tree clusters, and drainageways;
11. Existing development on adjacent properties within two hundred (200) feet.

5.15.05.03 The above-described site plan shall also include a section designated as "general provisions," and said section shall include the following when said items are applicable:

1. Net area in square feet or acres. (*Note:* Net area does not include land dedicated or necessary to be dedicated for public street right-of-way. If more than one parcel is proposed, designate net area by parcel as well as total net area.)
2. Density of dwelling units per acre of the total dwelling units for the entire plan.
3. Building coverage of the net area of the planned unit development by individual parcel or total development.
4. The percentage of the development plan provided for common open space as defined by this regulation.
5. If more than one parcel is proposed, a statement relating to the sequence of development shall be included.
6. Required number of off-street parking spaces.
7. Gross floor area proposed for commercial buildings.

5.15.05.04 A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.

5.15.05.05 The full legal description of the parcels of the property or properties shall be included in the planned unit development.

5.15.05.06 A vicinity map, shall be included, showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the proposed planned unit development.

5.15.05.07 A rendering or drawing of the general characteristics of the proposed buildings shall be submitted.

5.15.05.08 When a planned unit development includes provisions for common space, or recreational facilities, a statement describing the provision that is to be made for the care and maintenance for such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.

5.15.05.09 Copies of any restrictive covenants that are to be recorded with respect to property included in the planned development district.

5.15.05.10 The Planning Commission shall hold a Public Hearing on the PUD after the PUD has been reviewed by City of La Vista staff after giving notice as required by Statute for hearings.

5.15.05.11 Said public hearing may be adjourned from time to time and, within a reasonable period of time after the conclusion of said public hearing, the Planning Commission shall prepare and transmit to the City Council and the applicant specific findings of fact with respect to the extent which the PUD plan

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complies with those regulations, together with its recommendations in respect to the action to be taken on the PUD.

5.15.05.12 The City Council may or may not approve the PUD plan.

5.15.05.13 Substantial or significant changes in the PUD shall only be made after rehearing and re-approval.

5.15.05.14 After approval of a plan by the City Council, the applicant may apply for a building permit. The building permit shall include the same information as the plan.

5.15.05.15 The Community Development Department shall review the building permit for compliance with the approved plan.

5.15.05.16 In the event that the building permit submitted contains substantial changes from the approved development plan, the applicant shall resubmit the original plan. This development plan shall be modified in the same manner prescribed in this division as for original approval.

## 5.15.06 Enforcement

The approved PUD site plan is binding and shall be a restriction on development which runs with the land. Any unauthorized deviation therefrom shall be punishable and enforceable as a violation of this title.

## 5.15.09 Amendments.

The PUD District ordinance or an approved PUD plan may be amended in the same manner prescribed in this section for approval of a PUD plan. Application for amendment may be made by the homeowner's association or fifty-one (51) percent of the owners of the property within the PUD District.

## 5.15.11 Fees.

For the following applications the indicated fee shall be paid to the City:

1. PUD; as set in the Master Fee Schedule.

The fee does not include any Preliminary and Final Plat Fees required by the City of La Vista.

*(Ordinance No. 882, 11-19-02)*

## Section 5.16 R-M Mobile Home Residential - District

**5.16.01 Intent:** The intent of the Mobile Home Residential District shall be to provide for mobile home dwellings on leased or owned property in areas where a mobile home park is appropriate, where such development is recognized as being in the best interests of the citizens and taxpayers of La Vista.

## 5.16.02 Permitted Uses

The following uses are permitted in the R-M Mobile Home Residential District.

5.16.02.01 Single family dwelling.  
5.16.02.02 Mobile Home Dwellings.  
5.16.02.03 Public School.  
5.16.02.04 Private and public park, playground and recreational facilities.  
5.16.02.05 Church, educational facilities and parish house.  
5.16.02.06 Multi-unit dwellings provided such use is part of a Planned Unit Development-Residential.  
5.16.02.07 Public buildings.  
5.16.02.08 Child Care Homes.

## 5.16.03 Permitted Conditional Uses

5.16.03.01 Home occupation, subject to Section 7.10  
5.16.03.02 Child Care Center  
5.16.03.03 Utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility office, repair, storage or production facilities).  
5.16.03.04 Sewage disposal and water supply and treatment facilities.  
5.16.03.05 Campgrounds.  
5.16.03.06 Ground-Mounted Solar Energy Conversion Systems outside of the rear yard, as provided for in Section 7.15. *(Ordinance No. 1389, 3-3-2020)*

## 5.16.04 Permitted Accessory Uses.

5.16.04.01 Buildings and uses customarily incidental to the permitted uses.  
5.16.04.02 Parking as provided for in Section 7.05 through 7.09.  
5.16.04.03 Signs as provided for in Section 7.01 through 7.04.  
5.16.04.04 Solar Energy Conversion Systems as provided for in Section 7.15.  
*(Ordinance No. 1389, 3-3-2020)*

## 5.16.05 Area and Lot Requirements

5.16.05.01 A mobile home park shall have an area of not less than five (5) acres. No mobile homes or other structures shall be located less than eighty-three (83) feet from the road centerline when contiguous to or having frontage to a County road or state highway. The setback on all other court property

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lines shall be twenty-five (25) feet. These areas shall be landscaped. The minimum lot width for a mobile home park shall be two hundred (200) feet.

5.16.05.02 Each lot provided for occupancy of a single mobile home shall have an area of not less than five thousand (5,000) square feet, excluding road R.O.W., and a width of not less than fifty (50) feet for an interior lot, eighty (80) feet for a corner lot, or forty-five (45) feet when facing a cul-de-sac turnaround or curve on a minor loop street. Each individual lot shall have:

1. Side yards shall not be less than ten (10) feet on one side and not less than ten (10) feet on the other side, except that on corner lots, the setback for all buildings shall be a minimum of thirty (30) feet on the side abutting a street/road.
2. Front yard of not less than thirty (30) feet.
3. A rear yard of not less than twenty-five (25) feet.

5.16.05.03 There shall be a minimum livable floor area of five hundred (500) square feet in each mobile home, when mobile home is owned and leased by the mobile home park owner.

5.16.05.04 Height of Buildings.  
1. Maximum height for principal uses: thirty-five (35) feet.  
2. Maximum height for accessory uses: twenty (20) feet.

5.16.05.05 Each lot shall have access to a hard surfaced drive not less than twenty-two (22) feet in width excluding parking

5.16.05.06 City water and sewage disposal facilities shall be provided with connections to each lot. The water supply shall be sufficient for domestic use and for fire protection.

5.16.05.07 Tie downs shall meet all manufacturers' recommendations.

5.16.05.08 Service buildings including adequate laundry and drying facilities, and toilet facilities for mobile homes which do not have these facilities within each unit.

5.16.05.09 Not less than 8% of the total court area shall be designated and used for park, playground and recreational purposes.

5.16.05.10 Limitations on Lot Coverage shall be no more than 45%.

5.16.05.11 Storm shelters shall be required and shall meet the following criteria:  
1. Shelter space equivalent to two (2) persons per mobile home lot,  
2. Designed in conformance with "National Performance Criteria for Tornado Shelters" by the Federal Emergency Management Agency (FEMA) and any other referenced material by FEMA,  
3. Shelters shall be sited in order to provide maximum protection to park occupants and so that residents may reach a shelter within the maximum safe time frame as directed by FEMA.

5.16.05.12 All mobile home pad locations shall be hard surfaced with properly reinforced Poured in Place Concrete.

5.16.05.13 All mobile homes shall have skirting which is in good repair, meets manufacturer standards, and is in conformance with the color scheme of the trailer.

5.16.05.14 All off-street parking shall be hard surfaced.

5.16.05.15 All Mobile homes shall comply with all other City Ordinances.

## 5.16.06 Plan Requirements

5.16.06.01 A complete plan of the mobile home court shall be submitted showing:

1. A development plan and grading plan of the court.
2. The area and dimensions of the tract of land.
3. The number, location, and size of all mobile home spaces.
4. The number, location, and size of all hard surfaced pads shall be shown.
5. The area and dimensions of the park, playground and recreation areas.
6. The location and width of roadways and walkways.
7. The location of service buildings and any other proposed structures.
8. The location of water and sewer lines and sewage disposal facilities.
9. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home court.

## Section 5.17 GATEWAY CORRIDOR DISTRICT (OVERLAY DISTRICT)

### 5.17.01 Intent:

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The City of La Vista has established basic site and building development criteria to be implemented within the boundaries of this overlay district for *all multi-family, industrial, and commercial building projects*. The Gateway Corridor District has been established in order to implement the policies developed in the Future Land Use Plan portion of the Comprehensive Development Plan. These criteria include, but are not limited to the following: landscaping, building material selection, lighting, and interior street development. The purpose for regulating these issues is to provide for cohesive and properly developed entrances into the City corridor. Guiding development in this manner promotes the general health, safety and welfare of the residents within the zoning jurisdiction of the City, by providing quality design and construction which will also aid in the protection of past and future investment in the corridor. (*Ordinance No. 1172, 3-20-12*)

Within the Gateway Corridor Overlay District there is a sub-area secondary overlay centered on the intersection of 96th and Giles Road (see Official Zoning map). The purpose of this secondary overlay evolves around a partnership between the City of La Vista and Metropolitan Community College which have made a significant investment in the community with the new La Vista Public Library / MCC Sarpy Center. The City's desire is that this district be the standard of quality for all *multi-family, industrial, and commercial building projects* within this *geographically defined area*. See Section 5.17.06 for special design criteria for this sub-area. (*Ordinance No. 1048, 10-2-07*)

## 5.17.02 Purpose:

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

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

## 5.17.03 Geographic Area:

For a geographically defined area of the Gateway Corridor Overlay District, see the Official Zoning Map. If a site is partially covered by said overlay district, then the entire site is to be covered by these regulations. (*Ordinance No. 1048, 10-2-07*) (*Ordinance No. 1172, 3-20-12*)

The sub-area secondary overlay -area occurs within all developments that front on the 96th Street and Giles Road corridors including:

- Giles Road Corridor – from 90th Street to 108th Street.
- 96th Street Corridor – from Harrison Street to *Portal* Road

If a site is partially covered by said sub-area secondary overlay district, then the entire portion of the site facing 96<sup>th</sup> and/or Giles Road is to be covered by these regulations. See Section 5.17.06 for special design criteria for this geographic area. *For a geographically defined area, see the Official Zoning Map.* (*Ordinance No. 1048, 10-2-07*)

## 5.17.04 Criteria for Application:

5.17.04.01      New construction and modification of existing buildings, including the structure and the surrounding property, are required to have compliance reviewed through the design review process.

5.17.04.02      Exceptions:  
Conformance to this Building Criteria shall not apply if the project consists of one of the following:

1. Construction or modification of a single-family residence or duplex.
2. Structural Modification which will not be visible from outside the structure.

## 5.17.05 Criteria for Appearance

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

1. Site planning is encouraged to provide an interesting relationship between buildings.
2. Building and site designs shall relate to and promote pedestrian scale.
3. Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms, or other innovative means so as to screen parking areas from view from public ways and adjacent properties.
4. Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings. Multi-story facades shall be divided providing pedestrian scale.

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

5.17.05.02      Relationship of Buildings and Site to Adjoining Area (Outside Of Subdivision).

  1. Adjacent buildings of different architectural styles shall be made compatible by such means as screens, sight breaks, and materials.
  2. Attractive landscape transitions shall be designed to be compatible to adjoining properties.
  3. Harmony in texture, lines, and masses is required. Monotony shall be avoided.

5.17.05.03      Landscape and Site Treatment.

Landscape elements included in these criteria consist of all forms of planting and vegetation, ground forms, rock groupings, water patterns, and all visible construction except buildings and utilitarian structures.

  1. Where natural or existing topographic patterns contribute to beauty and utility of a development, they shall be preserved and developed. Modification to topography will be permitted where it contributes to good site design and development. All modifications to topography shall be designed to provide varied and more natural grading practices. Consistent, even topography that provides an engineered feel is not acceptable.
  2. Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for walking and, if seating is provided, for sitting.
  3. Landscape treatments shall be provided to enhance architectural features, strengthen vistas and important axis, and provide shade. Spectacular effects shall be reserved for special locations only.
  4. Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments. All projects need to use a minimum of the following listed plant varieties of the plants listed in Appendix A of the Gateway Corridor District Design Guideline Booklet.
    - A minimum of two species listed under the deciduous tree category
    - A minimum of one species listed under the coniferous tree category
    - A minimum of one species listed under the deciduous shrubs category
    - A minimum of one species listed under the coniferous shrubs category
  5. Plant material shall be selected for interest in its structure, texture, and color and for its ultimate growth. Plants that are indigenous to the area and others that will be hardy, harmonious to the design, and of good appearance shall be used.
  6. The landscape plan shall be designed to provide natural undulating landscape forms. Avoid consistent straight line pairings.
  7. Irrigation of all landscape elements as defined above and turf area is required. Provide specification or information showing compliance in the design submittal.
  8. Parking areas and traffic ways shall be enhanced with landscaped spaces containing trees or tree groupings.
  9. Screening of service yards and other places that tend to be unsightly shall be accomplished by use of walls, fencing, planting, or combinations of those. Screening shall be equally effective in winter and summer.
  10. Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Lighting standards and fixtures for the parking areas and drives within the building area shall be similar in appearance and quality level as the light fixtures identified in Appendix B of the Gateway Corridor District Design Guideline Booklet. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Wall Pack lighting and exterior lighting with visible lamps is not permitted. Lighting shall be Dark Sky compliant and limit wash onto abutting properties. Exceptions to Dark Sky compliance may be made for specific emergency lighting situations. Fixture, poles, and/or other support cut sheets are required in the design submittal for all exterior lighting fixtures to be utilized.
  11. Storm water management shall be integrated into the design of the site and landscaping. Storm water management criteria are found in the following reference materials:
    - Papillion Creek Watershed Partnership Storm Water Management Policies

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- Storm Water Management Regulations, Chapter 154 of the City of La Vista Municipal Code
- City of La Vista Subdivision Regulations, 2003 edition and latest amendments.
- Omaha Regional Storm Water Design Manual, Draft Revision of Chapter 8 dated June 2012, or latest edition.
- Nebraska Bioretention and Rain Garden Plants Guide, 2010 or latest edition as published by the UNL Extension Office

Plant selection shall take into consideration the depth and duration of storm water ponding in water quality detention areas and shall take into consideration long term operation and maintenance requirements to remove accumulated pollutants and/or to replace amended soils.

5.17.05.04

## Building Design.

1. Architectural style is not restricted; however, architectural style should be consistent throughout the subdivision. See Gateway Corridor District Design Guideline Booklet for examples of developments considered meeting this concept. **Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings and provide a comfortable pedestrian experience.**
2. Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.
3. All buildings are to be designed from a four-sided (360 degree) structure perspective, thus requiring the same caliber of finishes and design attention on all facades of the building. Large areas of blank exterior are to be avoided and are grounds for non-compliance.
4. Building Materials: (i) The primary building material of all portions of the building shall be brick (clay or stone) with its color selected for harmony of the building with adjoining buildings within its subdivision. The La Vista staff and design review architect may allow other primary building material of good architectural character, such as integral colored split faced concrete block for industrial buildings or portions of the building not visible from public view (i.e. facades that back up to the landscape buffer between commercial and residential buildings). Other secondary building materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings. Prefinished metal is acceptable for upper levels of multi-story buildings. (ii) Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways. (iii) Materials shall be of durable quality such as prefinished or integral color for long life with minimal maintenance. Any material requiring a field-applied finish shall have long life, i.e. coatings such as "TNEMEC" or equal. Product data shall be submitted for review. (iv) In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.
5. Building components, such as windows, doors, eaves and parapets, shall have good proportions and relationships to one another.
6. Colors shall be harmonious and shall include only compatible accents.
7. Portions of low slope roofs of less than 1/12 may be allowed. They may be either adhered or ballasted. If adhered, the membrane shall be in the lighter color ranges, such as white, to be more energy conscious and less absorptive. An SRI of 29 or greater is required.
8. Equipment Screening: Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from the elevation view and all angles associated with any public view. A section view shall be provided demonstrating appropriate screening. Mechanical screening shall match building elements and materials.
9. Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design. Use of more energy conscious lamps, such as LEDs or similar, is encouraged.
10. If used, fencing and site furniture, including waste cans, directories, ash urns, bike racks, guard rails or railing enclosures, shall be similar to those as shown in Appendix C of the Gateway Corridor District Design Guideline Booklet. The color of the site furnishings shall blend with the colors of the rest of the building/site.
11. Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view from public ways, using materials as stated in criteria for equipment screening. Doors for access shall remain

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closed except when personnel are present. Designers may consider convenient alternate access for daily pedestrian use such as a side door with closer.

12. All landscaping shall be in compliance with the Landscaping Requirements from the City of La Vista Zoning Ordinance.
13. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.
14. Exterior ladders are not allowed within the Gateway Corridor District.
15. Exterior bracing of parapets or other features shall be screened from elevation views. Screening shall match building elements and materials.
16. Drive-through locations. Transaction location at a drive through shall not be on an arterial street frontage. Exceptions may be granted due to site restraints.

## 5.17.05.05 Signs.

1. Every sign shall have good scale and proportion in its design and in its visual relationship to the buildings and surroundings.
2. Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.
3. The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and sit to which it principally relates.
4. The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the area of the sign face.
5. Each sign shall be compatible with signs on adjoining premises and shall not compete for attention.
6. Identification signs of a prototype design and corporation logos shall conform to the criteria for all other signs.
7. Menu Boards shall be incorporated as a site element and not be post mounted. No exposed utilities or conduit is allowed. Locate signs to minimize view from public ways and they are required to be screened with landscaping or by other means.

## 5.17.05.06 Maintenance – Planning and Design Factors.

1. Continued good appearance depends upon the extent and quality of maintenance. The choice of materials and their use, together with the types of finishes and other protective measures, must be conducive to easy maintenance and upkeep.
2. Materials and finishes shall be selected for their durability and wear as well as for their beauty. Proper measures and devices shall be incorporated into the design for protection against the elements, neglect, damage, and abuse.
3. If prefinished metal is allowed, TNEMEC coated metal, or approved equal are required.

## 5.17.06 Sub-area Secondary Overlay

### 5.17.06.01 Special Criteria for Sub-area.

The criteria found in this section are intended to be supplemental to the design standards stated in previous sections of this Article. See section 5.17.02 and 5.17.03 for purpose and geographic area of the Sub-area.

### 5.17.06.02 Landscape and Site Treatment.

1. Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments. All projects need to use a minimum of the following listed plant varieties of the plants used at the La Vista Public Library / MCC Sarpy Center. See Gateway Corridor District Design Guideline Booklet for a listing of those plant materials.
  - A. A minimum of two (2) species listed under the deciduous tree category.
  - B. A minimum of one (1) species listed under the coniferous tree category.
  - C. A minimum of one (1) species listed under the deciduous shrub category.
  - D. A minimum of one (1) species listed under the coniferous shrub category.
2. Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Lighting standards and fixtures for the parking areas and drives within the commercial building area shall be similar in appearance and quality level as the light fixtures used at the La Vista Public Library / MCC Sarpy Center. See Gateway Corridor District Design Guideline Booklet for information on the required light fixture style.

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Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided.

5.17.06.03 Building Design.  
The primary building material of all portions of the building shall be brick (clay) with its color selected for harmony of the building with adjoining buildings within its subdivision. The La Vista staff and design review architect may allow other primary building designs (of good architectural character i.e. split faced concrete block) for portions of the building not visible from public areas (i.e. facades that back up to landscape buffer between commercial buildings and residential). Other secondary building materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.

## 5.17.07 Factors For Evaluation

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

5.17.07.01 Conformance to ordinances and the Design Guideline.  
5.17.07.02 Logic of design.  
5.17.07.03 Exterior space utilization.  
5.17.07.04 Architectural character.  
5.17.07.05 Attractiveness of material selection.  
5.17.07.06 Harmony and compatibility.  
5.17.07.07 Circulation-vehicular and pedestrian.  
5.17.07.08 Maintenance aspects.  
5.17.07.09 Pedestrian Scale

## 5.17.09 Resubmittal Requirements

After the initial submittal, digital submissions are acceptable, with the exception of material and color samples. A final hard copy submittal in 11" x 17" format shall be required after final approval.

## 5.17.08 Approval of Changes After Design Acceptance

It is the owner's responsibility to point out and submit any exterior modifications that occur between design acceptance and completion of construction to assure timely issuance of a Certificate of Occupancy.

## 5.17.10 Process.

5.17.10.01 Pre-application Conference:  
A pre-application conference with city staff to give the applicant an opportunity to discuss plans before a great deal of time or money is expended. If a certain design is inappropriate, the applicant will know beforehand. This step is required unless determined unnecessary and waived by the Community Development Director or their designee.

5.17.10.02 Application for Design Review:  
The applicant needs to fill out the "Application for Design Review" and submit it along with the required submittals. A listing of required submittals is included as part of the application form. The application fee required for this submittal shall be in accordance with La Vista's Master Fee Schedule.

5.17.10.03 Design Review:  
The City of La Vista staff in association with the city design review architect will review the submittal documents for compliance with the Gateway Corridor District Design Guideline Booklet.

5.17.10.04 Schedule of Reviews  
A completed application will take approximately three weeks to review. Incomplete applications may cause a delay. Additional reviews will be necessary for all revised submittals until a Certificate of Approval is issued.

5.17.10.05 Certificate of Approval:

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Upon a successful review the City of La Vista will issue to the applicant a Certificate of Approval. A copy of this will need to be included with the Building Permit documents in order to receive a Building Permit.

## 5.17.10.06

### Waivers:

The applicant may request the City Administrator to waive strict conformance with Gateway Corridor District Design Guidelines for Small Projects. The City Administrator may grant the request upon written finding that the design enhances its setting and meets the overall intent and spirit of the Design Guidelines.

## 5.17.10.07

### Appeals:

In the event where the applicant, City staff and City design review architect cannot come to an agreement within 180 days of initial application submission, the applicant request a meeting with the City Administrator regarding an appeal to the City Council. (*Ordinance No. 1172, 3-20-12*)

## 5.17.10.08

### Certificate of Occupancy:

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

## 5.17.10.09

### Maintenance of Design Requirements:

The applicant needs to maintain the design requirements for the life of the project. In the event that they fail to do so the City may revoke the Occupancy Permit.

## 5.17.10.10

### Fees:

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

## Section 5.18 FF/FW Flood Plain Districts (Overlay District)

### 5.18.01 STATUTORY AUTHORIZATION

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

### 5.18.02 FINDINGS OF FACT

#### 5.18.02.01 Flood Losses Resulting From Periodic Inundation

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

#### 5.18.02.02 General Causes of Flood Losses

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

#### 5.18.02.03 Methods Used to Analyze Flood Hazards

These regulations use a reasonable method of analyzing flood hazards which consist of a series of interrelated steps:

1. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for these regulations is representative of large floods which are reasonable characteristic of what can be expected to occur on the particular streams subject to these regulations. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one (1) year, as delineated in the official Flood Insurance Study and illustrative materials dated May 3, 2010, and as may be amended.
2. Calculations of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and over-bank areas to convey the base flood.

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3. Computation of the floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
4. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.
5. Delineation of floodway fringe, i.e. that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood.

It is the purpose of these regulations to promote the public health, safety, and general welfare and to minimize those losses described in Section 5.18.02.01 by applying the provisions of these regulations for the following purposes.

- 5.18.03.01 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.
- 5.18.03.02 Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
- 5.18.03.03 Protect individuals from buying lands which are not suitable for intended purposes because of flood hazards.
- 5.18.03.04 Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance.

## **5.18.04 LANDS TO WHICH THESE REGULATIONS APPLY**

This ordinance shall apply to all lands within the jurisdiction of the City of LaVista, Nebraska that are subject to a 1% or greater chance of flooding in any given year, now or in the future, as identified as numbered and unnumbered A Zones (including AE, AO and AH Zones) on the effective Flood Insurance Rate Map (effective FIRM) dated May 3, 2010, or best available data as determined by more recent hydrologic and hydraulic studies completed or approved by the City or other government agency. Requirements established in Section 5.18.16 of this ordinance shall apply to the Zoning Districts FW and FF based on the most restrictive information available. In all areas covered by this ordinance no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 5.18.17, 5.18.18, and 5.18.19.

## **5.18.05 ENFORCEMENT OFFICER**

The Chief Building Official is hereby designated as the Enforcement Officer for the City of La Vista, Nebraska, under these regulations.

## **5.18.06 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, the Flood Insurance Rate Map or Floodway Map, or on the Digital 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 Enforcement Officer 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 flood fringe overlay district boundary on the land. The location of the floodway overlay district boundary may be based on a map completed or approved by the City or other government agency, provided the boundary is not less restrictive than that shown on the effective FIRM. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board of Adjustment and to submit his own technical evidence, if he so desires.

The boundaries of the FF/FW Flood Plain Districts (Overlay District) shall be determined by scaling distances on the official zoning map, the Flood Insurance Rate Map, or the Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Chief Building Official 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 location of the district boundary shall be given a reasonable opportunity to present his/her

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case to the Board of Adjustment and to submit his/her own technical evidence, if he/she so desires.

## **5.18.07 COMPLIANCE**

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

## **5.18.08 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 these regulations impose greater restrictions, the provisions of these regulations shall prevail. All other ordinances inconsistent with these regulations are hereby repealed to the extent of the inconsistency only.

## **5.18.09 INTERPRETATION**

In their interpretation and application, the provisions of these regulations shall be held to 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.

## **5.18.10 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do not imply that areas outside the boundaries of the FF/FW Flood Plain Districts or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability on the part of the City of La Vista, Nebraska, of any officer or employee thereof for any flood damages that may result from reliance on these regulations or any administrative decision lawfully made thereunder.

## **5.18.11 SEVERABILITY**

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

## **5.18.12 APPLICATION FOR APPEAL**

Where a request for a permit to develop is denied by the Chief Building Official, the applicant may apply for such permit or variance directly to the Board of Adjustment. The Board of Adjustment may grant or deny such request in accordance with the provisions of the Zoning Ordinance governing the Board of Adjustment.

## **5.18.13 PERMITS REQUIRED**

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

## **5.18.14 ADMINISTRATION**

The Chief Building Official is hereby appointed to administer and implement the provisions of these regulations. The duties of the Chief Building Official shall include, but not be limited to the following:

- 5.18.14.01 Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of these regulations have been satisfied.
- 5.18.14.02 Review applications for proposed development to assure that all necessary floodplain permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.
- 5.18.14.03 Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
- 5.18.14.04 Notify adjacent communities, the Papio-Missouri River NRD, the U.S. Army Corps of Engineers, Sarpy County, and the Nebraska Department of Natural Resources, Flood Plain Management Section, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- 5.18.14.05 Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

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- 5.18.14.06 Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
- 5.18.14.07 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 flood proofed.
- 5.18.14.08 When flood-proofing is utilized for a particular structure, the Chief Building Official shall be presented certification from a registered professional engineer or architect.
- 5.18.14.09 Facilitate the approval of new Flood Insurance Rate Maps or best available data as necessary.
- 5.18.14.10 Maintain records of all floodplain development permits and or building permits within the floodway or flood fringe overlay district to ensure that structures are not substantial improvements.
- 5.18.14.11 Filling of the floodway fringe associated with new development within the Papillion Creek System shall be limited to 25% of the floodway fringe in the floodplain development application project area, unless approved mitigation measures are implemented. The remaining 75% of floodway fringe within the project area shall be designated as a restricted fill zone. For redevelopment, these provisions may be modified or waived in whole or in part by the local jurisdiction.

## 5.18.15 APPLICATION FOR A PERMIT

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

- 5.18.15.01 Identify and describe the development to be covered by the floodplain development permit.
- 5.18.15.02 Describe the land on which the proposed development is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
- 5.18.15.03 Indicate the use or occupancy for which the proposed development is intended.
- 5.18.15.04 Be accompanied by plans and specifications for proposed construction, including but not limited to the following information: 1) existing (natural) grades, 2) proposed grades as a result of proposed development, 3) the proposed lowest floor elevation and any higher floor elevations, including attached garage, of any proposed structures, 4) the lowest and highest adjacent grades next to any proposed structures, 5) the most restrictive base flood elevation nearest the proposed development.
- 5.18.15.05 Be signed by the permittee or his authorized agent who may be required to submit documentation to indicate such authority.
- 5.18.15.06 Comments from the Papio-Missouri River Natural Resources District shall accompany each application for a flood plain development permit.
- 5.18.15.07 Give such other information as may be reasonably required by the Chief Building Official.

## 5.18.16 ESTABLISHMENT OF ZONING DISTRICTS

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: A floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the Flood Insurance Study, effective FIRM, or best available data. The zoning districts created by this resolution overlie other zoning districts and place additional restrictions upon the manner in which lands in such underlying district may be used. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

## 5.18.17 STANDARDS FOR FLOODPLAIN DEVELOPMENT

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

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5.18.17.02 All areas identified as unnumbered A Zones on the effective FIRM or best available data are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of these regulations. If Flood Insurance Study data is not available, the City of La Vista shall utilize any base flood elevation or floodway data currently available from Federal, state or other sources.

5.18.17.03 Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard area unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown on the effective FIRM or best available data.

5.18.17.04 New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:

1. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamics and hydrostatic loads, including the effects of buoyancy.
2. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
3. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. All electrical equipment and sanitary facilities, including circuits, installed electric appliances, toilets, sinks, drains, in new developments and substantial improvements shall be located so as to not be subject to flooding or shall be floodproofed to prevent damage resulting from flood levels exceeding the base flood elevation by one foot. Backflow valves should be installed on all septic lines leading from the structure.
5. The storage of material and equipment shall be regulated as follows:
  - (a) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
  - (b) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that:
  - (a) All such proposals are consistent with the need to minimize flood damage;
  - (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems, are located, elevated and constructed to minimize or eliminate flood damage;
  - (c) Adequate drainage is provided so as to reduce exposure to flood hazards; and
  - (d) Proposals for development of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposal the base flood elevation.

## 5.18.18 FLOOD FRINGE OVERLAY DISTRICT (INCLUDING AO AND AH ZONES)

### 5.18.18.01 Permitted Uses

Any use permitted in Section 5.18.19 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 5.18.17 are met.

### 5.18.18.02 Standards for the Flood Fringe Overlay District

1. Require that new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or

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above one (1) foot above the highest base flood elevation available, now or in the future.

2. Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation available, now or in the future, or, together with attendant utility and sanitary facilities, to be flood-proofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Chief Building Official as set forth in Section 5.18.14.07.
3. Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage. The area below lowest floor subject to flooding shall be a maximum of four (4) feet in height measured from the bottom of the floor joists, unless used for parking of vehicles. Areas other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. All electrical equipment and sanitary facilities, including circuits, installed electric appliances, toilets, sinks, drains, in new developments and substantial improvements shall be located so as to not be subject to flooding or shall be floodproofed to prevent damage resulting from flood levels exceeding the highest base flood elevation available, now or in the future, by one foot. Backflow valves should be installed on all septic lines leading from the structure.
5. Within AH Zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
6. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
  - (a) Over-the-top ties be provided at each of the four (4) corners of the manufactured home with two (2) additional ties per side at intermediate locations. Manufactured homes less than fifty (50) feet long require one (1) additional tie per side.
  - (b) Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points. Manufactured homes less than fifty (50) feet long require four (4) additional ties per side.
  - (c) All components of the anchoring system be capable of carrying a force of forty-eight hundred (4800) pounds.
  - (d) Any additions to manufactured homes be similarly anchored.
7. All manufactured homes to be placed or substantially improved within special flood hazard areas on the FIRM on sites outside of a manufactured home park or subdivision, or in a new manufactured home park or subdivision, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 5.18.18.02 (5) above.
8. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (i) be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use,

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or (ii) 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.

9. Located within the areas of special flood hazard established in Section 5.18.04 are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:
  - (a) All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the FIRM (at least two (2) feet if no depth number is specified).
  - (b) All new construction and substantial improvements of non-residential structures shall (i) 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 (at least two (2) feet if no depth number is specified), or (ii) together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the Chief Building Official as set forth in Section 5.18.14.07.
  - (c) Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

## 5.18.19 FLOODWAY OVERLAY DISTRICT

### 5.18.19.01 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 they do not require structures, fill, or storage of materials or equipment. The following are permitted uses for the Floodway District:

1. Open space uses not requiring a closed building, such as agricultural cropland, livestock feeding and grazing, or open public and private recreation areas.
2. Wire fences or other appurtenances may be constructed which would not constitute an obstruction or debris-catching obstacle to the passage of flood waters.
3. Railroads, streets, bridges, public utility wire and pipelines for transmission and local distribution.
4. Commercial excavation of materials from pits, strips, or pools; provided, that no stockpiling of materials, products or overburden shall be such as to create a potential restriction to the passage of flood waters.
5. Non-restrictive improvements in stream channel alignment, cross section, and capacity in the normal maintenance thereof.
6. Uses of a type not appreciably damaged by flood waters; provided, no structures for human habitation shall be permitted.

### 5.18.19.02 Standards for the Floodway Overlay District

The uses enumerated in 5.18.19.01 above shall only be permitted if certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Sections 5.18.17 and 5.18.18. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State or other sources or Section 5.18.17.04 (6)(d) of this ordinance, in meeting the standards of this section.

## 5.18.20 VARIANCE PROCEDURES

- 5.18.20.01 The Board of Adjustment as established by the City of La Vista, Nebraska, shall hear and decide appeals and requests for variances from the requirements of these regulations.

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5.18.20.02 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 Chief Building Official in the enforcement or administration of these regulations.

5.18.20.03 Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court of Sarpy County as provided in Section 19-912, R.R.S. Nebraska 1943.

5.18.20.04 In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of these regulations, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
6. The compatibility of the proposed use with existing and anticipated development;
7. The relationship of the proposed use to the Comprehensive Plan and Flood Plain Management Program for that area;
8. The safety of access to the property in times of flood for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and
10. 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, water systems, and streets and bridges.

**5.18.21 CONDITIONS FOR VARIANCES**

5.18.21.01 Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size if contiguous to or surrounded by lots with existing structures constructed below the base flood level, providing the requirements of Sections 5.18.21.02 through 5.18.21.05 below have been fully considered. As the lot size increases beyond one-half (1/2) acre, the technical justification required for issuing the variance increases.

5.18.21.02 Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.

5.18.21.03 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5.18.21.04 Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

5.18.21.05 Any applicant to whom a variance is granted shall be given a written notice from the Chief Building Official that 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 twenty-five dollars (\$25.00) for one-hundred dollars

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(\$100) of insurance coverage, and that 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 these regulations.

## 5.18.22 NONCONFORMING USE

5.18.22.01 A structure or the use of a structure or premises which was lawful before the passage or amendment of flood plain regulations, but which is not in conformity with the provisions of these regulations may be continued subject to the following conditions:

1. No such structure or use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.
2. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance.
3. Uses or adjuncts thereof, which are or become nuisances, shall not be entitled to continue as nonconforming uses.

5.18.22.02 If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of these regulations. 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.

## 5.18.23 PENALTIES FOR VIOLATION

Violation of the provisions of these regulations or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof, be fined not more than five hundred dollars (\$500), and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

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

## 5.18.24 AMENDMENTS

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

## 5.18.25 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.

**“Appeal”** – A request for a review of the Chief Building Official’s interpretation of any provision of this ordinance or a request for a variance.

**“Area of Shallow Flooding”** – A designated AO or AH Zone on a Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**“Area of Special Flood Hazard”** – The land in the flood plain within a community subject to one percent (1%) or greater chance of flooding in any given year.

**“Base Flood”** – The flood having one percent (1%) chance of being equaled or exceeded in any given year.

**“Basement”** – Any area of the building having its floor subgrade (below ground level) on all sides.

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**“Best Available Data”** – means any hydrologic and hydraulic studies which result in a base flood elevation, now or in the future, that is higher than that shown on the Effective FIRM or Effective FIS. Such study must be completed or approved by the Village/City/County or other government agency.

**“Development”** – Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**“Existing Construction”** (for the purpose of determining rates) – Structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRM’s effective before that date. “Existing Construction” may also be referred to as “existing structures.”

**“Existing Manufactured Home Park or Subdivision”** – 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.

**“Expansion to 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.)

**“Flood or Flooding”** – A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland waters; or
- (2) the unusual and rapid accumulation of runoff of surface waters from any source.

**“Flood Fringe”** – That area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every one-hundred (100) years, i.e. that has a one percent (1%) chance of flood occurrence in any one year.

**“Flood Insurance Rate Map (FIRM)” of “Effective 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.

**“Flood Insurance Study (FIS)” or “Effective FIS”** – The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

**“Floodplain”** – Any land area susceptible to being inundated by water from any source (see definition of “flooding”.)

**“Floodway” or “Regulatory Floodway”** – 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.

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

**“Highest Adjacent Grade”** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**“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.

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

**“Manufactured Home Park or Subdivision”** – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**“New Construction”** – For floodplain management purposes, “new construction” means structures for which the “start of construction commenced on or after the effective date of the floodplain

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management regulation adopted by a community and includes any subsequent improvements to such structures.

**"New 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 completed on or after the effective date of floodplain management regulations adopted by a community.

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

**"Principally Above Ground"** – At least fifty-one percent (51%) of the actual cash value of the structure is above ground.

**"Recreational Vehicle"** – A vehicle which is (1) built on a single chassis; (2) four hundred (400) square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Special Flood Hazard Area"** – The land in the floodplain within a community subject to one percent (1%) or greater chance of flooding in any given year.

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

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

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

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

**"Variances"** – A grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

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

## Section 5.19 MU-CC Mixed Use City Centre District

**5.19.01 Intent:** The intent of the Mixed Use Town Centre District (MU-CC) is to:

1. Accommodate mixed use buildings with neighborhood-serving retail, service, and other uses on the ground floor and residential units and office uses above the ground floor;
2. Buildings can be solely residential provided they are designed in a building-forward environment, with buildings at the street edge or having only shallow front setbacks.
3. Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets; and

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4. Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction.

## 5.19.02 Permitted Uses:

Uses are allowed in "MU-CC" zoning districts in accordance with the use table of this section.

### Uses Allowed in the MU-CC Zoning District

Use Category (Specific Use Type)	MU-CC District
<b>Residential:</b>	
Artist Live/Work Space located above the ground floor	P
Artist Live/Work Space, ground floor	P
Bed & breakfasts	P
Townhouses/condominiums	P
Multi-Family, above ground floor	P
Multi-Family, ground floor	C
Senior living: nursing care, rehab facility & assisted living facility	C
<b>Public and Civic:</b>	
Meeting hall	C
Museum	P
Publicly owned and operated facilities	P
Public services	P
Recreation areas/parks (public)	P
Social club/fraternal organizations	C
Parking Structures or Lots	P
<b>Commercial:</b>	
Antique store	P
Apparel shop	P
Art gallery	P
Attorneys	P
Automated Teller Machines	C
Bakery shop (retail)	P
Banks	P
Barber and beauty shop	P
Bicycle shop	P
Book store, not including uses defined in Adult Establishment.	P
Brew pubs	P
Brew-on premises store	P
Business or trade school	C
Business services	P
Camera store	P
Charitable organizations	C
Child care (center)	P
Coffee kiosks	P
Communication services	C
Computer store	P
Confectionery	P
Credit services	P
Dairy product sales	P
Dance studio	P
Dental office	P
Department store	P
Drug store	P

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Dry cleaning & laundry pickup	P
Event center	C
Exercise, fitness & tanning spa	P
Finance/investment services	P
Fireworks stands	T
Floral shop	P
Food sales (general)	P
Food sales (limited)	P
Furniture store or showroom	P
Gift shop	P
Gunsmith	C
Hardware store	P
Health club or recreation facility, not including uses defined in Adult Establishment.	C
Hobby, craft store	P
Home occupations	C
Hotels, including restaurants, convention and meeting facilities and other related uses, not including uses defined in Adult Establishment.	P
Insurance	P
Jewelry store	P
Liquor store	P
Locksmith	P
Mail order services	C
Meat market, retail	C
Medical office	P
Micro-breweries, connected to restaurant	P
Music retail store	P
Music studio	P
Newsstands	P
Office	P
Open-air farmers markets	P
Outdoor display of merchandise	P
Paint store	P
Personal Services, not including uses defined in Adult Entertainment Establishment. ( <i>Ordinance No. 1369, 10-1-19</i> )	P
Pet health services	P
Pet shop	C
Photographer	P
Picture framing shop	P
Pinball or video games business	C
Produce stands	P
Real estate offices	P
Recreational establishments	C
Restaurants, café, and fast food	P
Second hand stores	C
Security brokers	P
Shoe store	P
Sporting goods	P
Stamp and coin stores	P
Tailors and dressmakers	P
Tanning salon	P
Tavern and cocktail lounge, not including uses defined in Adult Establishment.	P
Theater, indoor, not including uses defined in Adult Establishment.	P
Title abstracting	P

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Toy store	P
Travel agencies	P
Tutoring and Exam Preparation Services	P
Video store, not including uses defined in Adult	P
Establishment.	

## Industrial:

Manufacturing: Artisan (Limited)	C
(hand tools only: e.g., jewelry or ceramics)	

## Other:

Temporary structures (events)	T
Temporary structures (construction)	T

P = permitted by right; C = conditional use; T = temporary

### 5.19.03 Permitted Accessory Uses

- 5.19.03.01 Buildings and uses customarily incidental to the permitted uses.
- 5.19.03.02 Urban residential storage as an accessory to a primary residential use.
- 5.19.03.03 Parking as permitted in Section 7.05 through 7.09.
- 5.19.03.04 Signs allowed in Section 7.01 through 7.04.
- 5.19.03.05 Landscaping as required by Section 7.17.
- 5.19.03.06 Solar Energy Conversion Systems as provided for in Section 7.15. (*Ordinance No. 1389, 3-3-2020*)

### 5.19.04 Setbacks

1. The entire building façade must abut front and street side property lines or be located within 10 feet of such property lines.
2. No rear setback shall be required, except where the rear lot line is contiguous to a residential use, in which case the following standards shall apply:
  - a. There shall be a minimum rear setback of twenty (25) feet the full width of the lot;
3. No interior side setbacks are required in the MU-CC district, except when MU-CC zoned property abuts a residential use, in which case the minimum side setback required in the MU-CC district shall be the same as required for a residential use on the abutting residentially-zoned lot.

### 5.19.05 Building Height

The maximum building height shall be 90 feet.

### 5.19.06 Off-Street Parking

1. No off-street parking is required in the MU-CC district.
2. If off-street parking is utilized, it shall comply with Sections 7.08-7.09 of this ordinance.
3. All parking spaces shall be paved with asphalt, concrete or other approved hard surface.
4. The use of shared parking is encouraged.
5. Off-street parking spaces should be located to the rear of the main façade of the principal building or otherwise screened to satisfy the screening requirements of the district design standards.

### 5.19.10 Circulation and Connectivity

Uses shall be integrated with the surrounding community, easily accessible, and have a good internal circulation system for a variety of travel options.

1. Internal walk connections are required between buildings, and from buildings to all on site facilities, such as parking areas, bicycle facilities, and open space.
2. External walk connections are required to provide direct access from all buildings on the site to existing or planned sidewalks, adjacent multi-use trails, parks, and greenways.

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	LOT AND AREA REQUIREMENTS	MINIMUM LOT AREA		MIN. YARD SETBACK			MAXIMUM HEIGHT		MAX. LOT COVERAGE
	ZONING DISTRICT	LOT AREA	LOT WIDTH (feet)	FRONT (feet)	SIDE (feet)	REAR (feet)	IN STORIES	IN FEET	PERCENT OF LOT AREA
TA:	<b>Transitional Agricultural</b> Residential dwellings Other Permitted Uses Permitted Conditional Uses Accessory Uses	20 acres 20 acres 20 acres -	660 660 660 -	75 75 75 100	25 25 25 25	25 25 25 10	2 1/2 3 3 1 1/2	35 45 45 17	- - - -
R-1:	<b>Single-Family Residential</b> Single-family detached (existing) <sup>4</sup> Single-family detached (future) <sup>4</sup> Other Permitted Uses and Conditional Uses Accessory Uses	5,000 s.f. 7,000 s.f. 8,000 s.f. -	60 70 75 -	30 30 25 50	5 10 25 5	30 30 25 5	2 1/2 2 1/2 3 1 1/2	35 35 45 17	35% 40% 25% 10% <sup>2</sup>
R-2:	<b>Two-Family Density Residential</b> Single-family detached (existing) <sup>4</sup> Single-family, dwelling (future) <sup>4</sup> Two-family dwelling <sup>4</sup> Single-family, attached <sup>4</sup> Townhouses/Condominiums Other Permitted Uses and Conditional Uses Accessory Uses	5,000 s.f. 7,000 s.f. 10,000 s.f. 4,500 s.f. / du 2,500 s.f. / du 8,000 s.f. -	50' 70 100 50 per unit 25 per unit 75 -	30 30 30 30 30 30 50	5 10 10 10 <sup>1</sup> 10 10 5	30 30 30 30 30 30 5	2 1/2 2 1/2 2 1/2 2 1/2 2 1/2 3 1 1/2	35 35 35 35 35 45 17	35% 40% 40% 40% per unit 40% 30% 10% <sup>2</sup>
R-3	<b>High Density Residential</b> Single-family, detached <sup>4</sup> Single family, attached <sup>4</sup> Two-family dwelling <sup>4</sup> Townhouses Multi-family dwellings Other Permitted Uses and Conditional Uses Accessory Uses	7,000 s.f. 4,500 s.f./du 10,000 s.f. 2,500 s.f. See Section 5.8.05 8,500 s.f. -	70 50 per unit 75 25 per unit 100 75 -	30 30 30 30 30 30 50	10 10 <sup>1</sup> 10 10 <sup>1</sup> 10 10 5	30 30 30 30 30 30 5	2 1/2 2 1/2 2 1/2 2 1/2 3 3 1 1/2	35 35 35 35 45 45 17	40% 40% per unit 40% 40% 40% 30% 10% <sup>2</sup>
R-4:	<b>Condominium Residential</b> Single-family, detached <sup>4</sup> Single-family, attached <sup>4</sup> Two-family dwelling <sup>4</sup> Condominiums Multi-family dwellings Other Permitted Uses and Conditional Uses Accessory Uses	7,000 s.f. 4,500 s.f. / du 10,000 s.f. 2,500 s.f. See Section 5.09.05 8,500 s.f. -	70 50 per unit 75 25 per unit 100 75 -	30 30 30 30 30 30 50	10 10 <sup>1</sup> 10 10 <sup>1</sup> 10 10 8	30 30 30 30 30 30 10	2 1/2 2 1/2 2 1/2 2 1/2 3 3 1 1/2	35 35 35 35 45 45 17	40% 40% per unit 40% 40% 40% 30% 10% <sup>2</sup>
C-1:	<b>Shopping Center Commercial</b> Permitted Uses Permitted Conditional Uses	- -	150 150	25 <sup>5</sup> 25 <sup>5</sup>	10 10	25 25	3 3	45 45	60% 60%
C-2:	<b>General Commercial</b> Permitted Uses Permitted Conditional Uses	10,000 s.f. 10,000 s.f.	- -	25 <sup>5</sup> 25 <sup>5</sup>	15 15	15 15	3 3	45 45	60% 60%
C-3:	<b>Highway Commercial / Office Park</b> Permitted Uses Multi-family residential Permitted Conditional Uses	10,000 s.f. 10,000 s.f. 10,000 s.f.	- - -	25 <sup>5</sup> 25 <sup>5</sup> 25 <sup>5</sup>	15 15 15	15 15 15	3 3 3	45 45 45	60% 60% 60%
I-1:	<b>Light Industrial</b> Permitted Uses Permitted Conditional Uses Accessory Buildings	10,000 s.f. 10,000 s.f. -	- - -	35 <sup>6</sup> 35 <sup>6</sup> 70	30 30 10	25 25 10	3 3 -	45 45 25	65% 65% 20%
I-2:	<b>Heavy Industrial</b> Permitted Uses Permitted Conditional Uses Accessory Buildings	10,000 s.f. 10,000 s.f. -	- - -	35 <sup>6</sup> 35 <sup>6</sup> 70	30 30 10	25 25 10	3 3 -	45 45 25	75% 75% 20%

<sup>1</sup> The Side Yard setback along the common wall shall be 0 feet and the common wall shall be along the adjoining lot line

<sup>2</sup> Provided total area of accessory structure for single family does not exceed 700 s.f. or all structures do not exceed 45% total coverage in the R-1 District and 50% total coverage in the remaining Residential Districts.

<sup>3</sup> For Multi-family units, the Side Yard setback shall be 10 feet if it is a max. of 3 stories, and 2 additional feet of Side Yard on each side for each additional story in excess of 3 stories.

<sup>4</sup> On corner lots: existing development = Street Side Yard may conform to existing setbacks along the street. Future Development = Street Side Yard setback shall equal Front Yard setback

<sup>5</sup> 25 ft Front Yard setback required if no parking otherwise there is a 50 ft Front Yard setback

<sup>6</sup> 35 feet Front Yard setback required if no parking otherwise there is a 60 feet Front Yard setback

Additional requirements may apply to a Zoning District, please refer to the specific district, the General Requirements and the Supplemental Regulations for more information. (Ordinance No. 875, 10-15-02) (Ordinance No. 900, 2-04-03) (Ordinance No. 968, 11-15-05)

# ORDINANCE RECORD

No. 728—REFIELD & COMPANY INC., OMAHA

**SECTION 4. Amendment of Article 6.** Article 6 of the Ordinance No. 848 is hereby amended to read as follows:

## ARTICLE 6: CONDITIONAL USE PERMITS

**Section 6.01 General Provisions.** The City Council may, by conditional use permit after a Public Hearing and referral to and recommendation from the Planning Commission, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The Council may grant or deny a conditional use permit in accordance with the intent and purpose of this ordinance. In granting a conditional use permit, the Council will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit.

**Section 6.02 Application for Conditional Use Permits.** A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the City upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee.

**Section 6.03 Public Hearing.** Before issuance of any conditional use permit, the Council will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of La Vista, one time at least ten (10) days prior to such hearing.

**Section 6.04 Decisions.** A majority vote of the Council shall be necessary to grant a conditional use permit. No order of the Council granting a conditional use permit, which has not been acted upon by the applicant, meaning that the use has been commenced or construction has been initiated, shall be valid for a period longer than twelve (12) months from the date of such order. Unless the following is completed:

- 6.04.01 City staff has granted an additional twelve (12) month administrative extension provided:
  - 6.04.01.01 The character (including uses, parking conditions, traffic, and others) of the area in which the use(s) were approved has not changed significantly,
  - 6.04.01.02 The applicant has made some effort to follow through with said permit or there were circumstances that slowed the applicants' progress.
  - 6.04.01.03 If the administrative extension of the second twelve (12) month period has lapsed without establishment of said conditionally permitted use; or, if staff deems the character of the area has changed within the initial twelve (12) month period, the applicant shall be required to reapply to both the Planning Commission and City Council for further approval(s).

**Section 6.05 Standards.** No conditional use permit shall be granted unless that Planning Commission or City Council has found:

- 6.05.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
- 6.05.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- 6.05.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
- 6.05.04 That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
- 6.05.05 That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 6.05.06 The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- 6.05.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
- 6.05.08 The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.
- 6.05.09 The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.
- 6.05.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- 6.05.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

# ORDINANCE RECORD

No. 728—REFIELD & COMPANY INC., OMAHA

SECTION 5. Amendment of Article 7. Article 7 of the Ordinance No. 848 is hereby amended to read as follows:

## ARTICLE 7: SUPPLEMENTAL REGULATIONS

### Section 7.01 Sign Regulations

#### 7.01.01 Purpose

The purpose of these sign regulations are: to encourage the effective use of signs as a means of communication in the city; to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations. These sign regulations are adopted under the zoning authority of the city in furtherance of the more general purposes set forth in the zoning ordinance.

#### 7.01.02 Applicability

A sign may be erected, placed, established, painted, created, or maintained within the city and the city's extraterritorial zoning jurisdiction only in conformance with the standards, procedures, exemptions and other requirements of these sign regulations.

#### 7.01.03 Definitions and Interpretation

Words and phrases used in this ordinance shall have the meanings set forth in Section 2. Principles for computing sign area and sign height are contained in Section 7.01.04.

#### 7.01.04 Computations

##### 1. *Computation of Area of Individual Signs*

The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing as a whole, representation, emblem, or other display as a whole, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly identical to the display itself.

##### 2. *Computation of Area of Multi-faced Signs*

The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one of the faces.

##### 3. *Computation of Height*

The height of a sign shall be computed as the distance from the grade at the base of the sign, or from the grade immediately below the sign in the case of Wall Signs, at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be from finished grade. Any berms shall be construed to be a part of the sign base and added to the overall height of the sign.

#### 7.01.05 Permitted Signs and Limitations

##### 1. *Ground Monument*

- A. Monument signs shall be located along the frontage of the zoned lot. All signs shall be of permanent construction and are subject to the provisions of local codes and ordinances. On corner lots, the monument sign may be placed on either frontage.
- B. All ground monument signs shall be located on the same lot as the advertised use.
- C. Signs shall contain only the name or trademark of the business, building or complex which it identifies.
- D. With the exception of change panels permitted for gas stations to advertise gasoline prices, no change panels, advertising or names of individual tenants will be allowed.
- E. Setbacks for all ground monument signs are ten (10) feet, no setbacks are required in the MU-CC District.
- F. The following criteria apply to Ground Monument signs:

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District	Design Limitations for Ground Monuments		
	Max. Size	Max. Height	Max. Number
TA	32 square feet	10 feet	One (1) per lot frontage
R-1	32 square feet	10 feet	One (1) per lot frontage
R-2	32 square feet	10 feet	One (1) per lot frontage
R-3	32 square feet	10 feet	One (1) per lot frontage
R-4	32 square feet	10 feet	One (1) per lot frontage
C-1	32 square feet	10 feet	One (1) per lot frontage
C-2	32 square feet	10 feet	One (1) per lot frontage
C-3	50 square feet	10 feet	Two (2) per lot frontage
MU-CC	32 square feet	10 feet	One (1) per lot frontage
I-1	32 square feet	10 feet	One (1) per lot frontage
I-2	32 square feet	10 feet	One (1) per lot frontage
PUD	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district

## 2. Center Identification Signs

- A. All Center Identification signs shall be a ground monument style sign.
- B. *A maximum of two Center Identification signs per development shall be allowed. No two signs shall be allowed closer than five-hundred (500) feet to each other on the same side of the street, measured along the edge of the street.*
- C. All Center Identification signs shall be constructed in a manner that is permanent.
- D. Acceptable materials include:
  - Exterior Insulation Finish System (EIFS)
  - Brick
  - Split face Concrete Masonry Units
  - Stone
  - Metal
  - Simulated Acrylic, or
  - Other materials provided said design is reflective of the character of the use.
- E. All Center Identification signs shall advertise only the name of the development *and/or major tenants*, unless in compliance with Subsection G below.
- F. Setbacks for all Center Identification Signs shall be twenty (20) feet along a street designated as an arterial or collector and ten (10) feet along any street designated as a local, minor or private street. Setback requirements shall not apply for Center Identification Signs within the Mixed-Use City Centre (MU-CC) Zoning District, given that such signs are not placed within the sight triangle area.
- G. Change panels and/ or changeable copy may be allowed provided:
  - Signs shall only include business names *or logos*
  - Fonts shall be similar to that of the development name
  - Said panels and / or copy match in color and material to the overall sign.
- H. *Electronic Message Boards shall only be allowed as part of a Center Identification Sign, provided the following:*
  - *No more than one-half of the permitted sign area shall be used for changeable copy or electronic message board signs.*
  - *The board may be double-faced.*
  - *Each board shall be permanently installed or located.*
  - *Electronic messages shall not be animated or flash continuously (blinking) in any manner.*
  - *Electronic message boards must use automatic level controls to reduce light levels at night and under cloudy and other darkened conditions, in accordance with the standards set forth in this sub-section. All electronic message boards must have installed ambient light monitors, and must at all times allow such monitors to automatically adjust the brightness level of the electronic sign based on ambient light conditions. Maximum brightness levels for electronic message boards may not exceed 5000 nits when measured from the signs face at its maximum brightness, during daylight hours, and 500 nits when measured from the signs face at its maximum brightness between sunset and sunrise, as those times are determined by the National Weather Service.*
  - *The message cannot change copy at intervals of less than one (1) minute. Changes of message image must be instantaneous as seen by the human eye and may not use fading, rolling, window shading, dissolving, or similar effects as part of the change.*
- I. No more than 50% of the sign area or change panel area may be dedicated to advertise any single tenant.
- J. The following criteria apply to Center Identification signs:

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District	Design Limitations for Center Identification Signs		
	Max. Size	Max. Height	Max. Number
<b>TA</b>			
<b>R-1</b>			
<b>R-2</b>			
<b>R-3</b>			
<b>R-4</b>			
<b>C-1</b>	100 square feet	20 feet	One (1) <i>per main entrance but not more than two (2) per street frontage of the development</i>
<b>C-2</b>	100 square feet	20 feet	One (1) <i>per main entrance but not more than two (2) per street frontage of the development</i>
<b>C-3</b>	150 square feet	24 feet	One (1) <i>per main entrance but not more than three (3); plus, one (1) when abutting Interstate 80</i>
<b>MU-CC</b>	150 square feet	24 feet	One (1) <i>per main entrance but not more than two (2) per street frontage of the development</i>
<b>I-1</b>	100 square feet	20 feet	One (1) <i>per main entrance but not more than three (3); plus, one (1) when abutting Interstate 80</i>
<b>I-2</b>	100 square feet	20 feet	One (1) <i>per main entrance but not more than three (3); plus, one (1) when abutting Interstate 80</i>
<b>PUD</b>	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district

*(Ordinance No. 883, 11-19-02) (Ordinance No. 896, 2-04-03) (Ordinance No. 1145, 5-17-11)*

### 3. Wall Signs

- A. All wall signs shall be mounted to the primary face of the use, *unless otherwise substituted by the Community Development Department. (Ordinance No. 988, 4-18-06)*
- B. For multi-tenant buildings, maximum sign size for each tenant will be based on the width of the storefront of the bay that they occupy.
- C. The following criteria apply to Wall Signs:

District	Design Limitations for Wall Signs		
	Max. Permitted Sign Area	Max. Height	Max. Number
<b>TA</b>	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
<b>R-1</b>			
<b>R-2</b>			
<b>R-3</b>			
<b>R-4</b>			
<b>C-1</b>	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
<b>C-2</b>	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
<b>C-3</b>	2.5 square feet per lineal foot of building / storefront to a Max. of 600 sq. ft.	45 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
<b>MU-CC</b>	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	90 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
<b>I-1</b>	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
<b>I-2</b>	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
<b>PUD</b>	The maximum allowed within the underlying zoning district, <i>or otherwise prescribed in the approved P.U.D Plan of said lot/development, or as otherwise prescribed in such P.U.D.</i>	The maximum building height allowed <i>in the approved P.U.D Plan of said lot/development, or as otherwise prescribed in such P.U.D.</i>	The maximum allowed within the underlying zoning district, <i>or otherwise prescribed in the approved P.U.D Plan of said lot/development.</i>

*(Ordinance No. 988, 4-18-06)*

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## 4. *Incidental Signs*

- A. Incidental signs shall be placed in locations along the primary face of the building.
- B. Incidental signs may be placed on a second building face, when the building has dual frontage.
- C. The following criteria apply to Incidental Signs:

District	Design Limitations for Incidental Signs		
	Max. Size	Max. Height	Max. Number
TA	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
R-1	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
R-2	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
R-3	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
R-4	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
C-1	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
C-2	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
C-3	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
MU-CC	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
I-1	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
I-2	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
PUD	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district

## 5. *Directional Signs*

- A. Directional signs may be erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic for purposes other than those of the Project Directory Signs. Example uses are arrow signs directing vehicles to a drive-thru lane or pedestrians to a building entrance.
- B. Directional signs shall contain no advertising, though may contain the business's logo.
- C. The following criteria apply to Directional Signs:

District	Design Limitations for Directional Signs		
	Max. Size	Max. Height	Max. Number
TA	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
R-1			
R-2			
R-3			
R-4			
C-1	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
C-2	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
C-3	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
MU-CC	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
I-1	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
I-2	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
PUD	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district

*(Ordinance No. 1358, 8-5-2019)*

## 6. *Project Directory Signs (Ordinance No. 1145, 5-17-2011)*

*In order to maintain the flow of traffic on arterial and collector roads and to promote vehicular safety, emphasis is made to limit the number of ingress and egress points off of such roads. Project directory signs are intended to direct attention to planned multi-tenant developments which are not easily accessible off of such roads and where on-premise signage for that development (or any tenants within the development) would not otherwise be visible by the motorists traveling on nearby arterial or collector roads at the closest point of access. Provisions are provided to allow project directory signs which identify the name of the particular development and/or the names of their tenants. Such signs would be supplemental to signage otherwise provided for such developments.*

*Directional signs may be erected under the following conditions:*

- A. Access to the development is restricted. Full ingress and egress to the development off an arterial or collector road is limited by access constraints or non-existent.
- B. Such signs may be placed on or off-premises. All such signs shall be constructed and located, however, so as to be visible by the motorist traveling on the arterial or collector road which intersects with the local road providing access to the development.
- C. Setbacks for all Project Directory Signs shall be twenty (20) feet along a street designated as an arterial or collector and ten (10) feet along any street designated as a local, minor or private street.
- D. A maximum of two project directory signs per development shall be allowed. No two signs shall be allowed closer than five-hundred (500) feet to each other on the same side of the street, measured along the edge of the street.
- E. No such sign shall be allowed further than one-thousand (1,000) feet from any entity advertising on the sign using the closest straight line measurement.

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- F. The minimum distance between a sign location and any residential zoning district shall be 50 feet.
- G. The sign may contain the name of the development, names of tenants within the development, directional arrows and distance information. If off-premises, sign shall identify multiple businesses or industries.
- H. The size of each sign shall be a function of the number of tenants within the development. Each eight (8) square feet per principal use within the development, whichever is greater, with a maximum area of eighty (80) square feet.
- I. All such signs shall be a ground-mounted, monument-style sign.
- J. Such signs shall be subject to the design standards of the PUD or Gateway Corridor Overlay District, if within such district.

District	Design Limitations for Project Directory Signs		
	Max. Size	Max. Height	Max. Number
TA			
R-1			
R-2			
R-3			
R-4			
C-1	80 square feet	10 feet	One (1) per main entrance but not more than two (2)
C-2	80 square feet	10 feet	One (1) per main entrance but not more than two (2)
C-3	80 square feet	10 feet	One (1) per main entrance but not more than two (2);
MU-CC	80 square feet	10 feet	One (1) per main entrance but not more than two (2);
I-1			
I-2			
PUD	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district

## 7. Roof Signs

Roof signs shall be permitted only in the Mixed Use – City Centre District provided:

- A. Signs shall be allowed on multi-story buildings only.
- B. A maximum of one (1) roof sign shall be allowed per lot.
- C. Signs shall be a maximum of 11 feet in height above the highest point of the roofline.
- D. Sign allowance shall be calculated at 2.5 square feet per lineal foot of building frontage to a maximum of 600 sq. ft.
- E. The use of electronic message boards shall be prohibited. Sign animation shall be limited to the slow and gradual dimming or fading of individual lights. Flashing signs will be prohibited.
- F. Where a wall sign is present on the building or structure façade, a roof sign shall be prohibited; where a roof sign is present on the building or structure façade, a wall sign shall be prohibited. This does not apply to wall signs of multi-tenant bays, or to roof signs advertising an entire development or district, rather than a specific use/occupant in the building on which the sign is placed. A maximum of two roof signs advertising the same development/district shall be permitted.

## 8. Blade Signs

Blade signs shall be permitted only in the Mixed Use – City Centre District provided:

- A. Signs will only be allowed for the following uses: event center, meeting hall, or publicly owned and operated facility.
- B. Signs shall be allowed on multi-story buildings only with frontage of at least 20 ft.
- C. Signs shall conform to the vertical clearance requirements of this section of the Zoning Ordinance.
- D. Animation of the message is prohibited.
- E. Signs shall have two identical faces.
- F. Only two Blade Signs shall be permitted per building.
- G. Sign allowance cannot exceed 60 square feet.

## 9. Marquee Signs

Marquee signs shall be permitted only in the Mixed-Use City Centre District provided:

- A. Signs will only be allowed the following uses: event center, meeting hall, or publicly owned and operated facility.
- B. Signs shall conform to the vertical clearance requirements of this section of the Zoning Ordinance.
- C. A maximum of one (1) marquee sign shall be allowed per building and may only be placed on the primary face of the building.
- D. Sign allowance shall be limited to no more than ten percent (10%) of the area of the façade to which the marquee is attached.
- E. No portion of a marquee sign shall extend vertically above the eave line.
- F. Marquee signs with non-electronic change panels are prohibited.

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## 10. Other Permitted Signs

Canopy  
Identification  
Projecting  
Real Estate  
Nameplate  
Temporary (see Section 7.03.02)

Window  
*Subdivision (Ordinance No. 873, 10-15-02)*  
*Construction (Ordinance No. 873, 10-15-02)*

Signs shall be permitted in the various districts at the listed square footage and heights according to the following schedule:

<u>Zoning District</u>	<u>TA</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>MU-CC</u>	<u>I-1</u>	<u>I-2</u>
<u>Sign Type</u>											
<u>Identification</u>											
Max. Size (Square Ft.)	2 <sup>1</sup>										
Max. Height (Ft.)	NA										
Number Allowed per building	1	1	1	1	1	1	1	1	1	1	1
<u>Real Estate</u>											
Max. Size (Square Ft.)	32	6	6	6	6	32	32	32	32	32	32
Max. Height (Ft.)	6	4	4	4	4	6	6	6	6	6	6
Number Allowed per lot	2	1	1	1	1	2 <sup>7</sup>					
<u>Subdivision</u>											
Max. Size (Square Ft.)	32	32	32	32	32	32	32	50	32	32	32
Max. Lot Coverage (Sq. Ft.)	2,500 <sup>4</sup>										
Max. Height (Ft.)	10	10	10	10	10	10	10	15	10	10	10
Number Allowed per lot	2 <sup>5</sup>										
<u>Construction</u>											
Max. Size (Square Ft.)	32	32	32	32	32	32	32	32	32	32	32
Max. Height (Ft.)	8	8	8	8	8	8	8	8	8	8	8
Number Allowed per lot	4 <sup>6</sup>										
<u>Canopy</u>											
Max. Size	25% <sup>2</sup>	N	N	N	N	25% <sup>2</sup>					
Max. Height (Ft.)	NA	N	N	N	N	NA	NA	NA	NA	NA	NA
Number Allowed per building	1	N	N	N	N	1	1	1	1	1	1
<u>Window</u>											
Max. Size	25% <sup>3</sup>	N	N	N	N	25% <sup>3</sup>					
Max. Height (Ft.)	NA	N	N	N	N	NA	NA	NA	NA	NA	NA
Number Allowed per building/ storefront	2	N	N	N	N	2	2	2	2	2	2
<u>Projecting</u>											
Max. Size (Square Ft.)	N	N	N	N	12	12	12	12	12	N	N
Max. Height (Ft.)	NA										
Number Allowed per tenant	1	1	1	1	1	1	1	1	1	1	1
<u>Nameplate</u>											
Max. Size (Square Ft.)	2	2	2	2	2	N	N	N	N	N	N
Max. Height (Ft.)	NA	NA	NA	NA	NA	N	N	N	N	N	N
Number Allowed per building	1	1	1	1	1						

N: not permitted

NA: Not Applicable

**(Ordinance No. 873, 10-15-02) (Ordinance No. 897, 2-04-03) (Ordinance No. 951, 3-15-05)**

1: Maximum letter height is equal to 12 inches

2: percentage of total Canopy area

3: percentage of total window area

4: When constructed as a landscaping element on an outlot or plat lot

5: Per Entrance

6: Maximum number equal to four (4) when every sign equals the maximum size, no maximum number when using six (6) square foot signs

7: On corner lots or lots one (1) acre or greater, otherwise one (1) per lot **(Ordinance No. 897, 2-04-03)**

**Note:** All signs shall have a Vertical Clearance of nine (9) feet above any public sidewalk, private drive, or parking.

All signs shall have a Vertical Clearance of twelve (12) feet above any Public Street.

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## 11. Sign type, District Permitted

A. Signs shall be permitted in the various districts according to the following schedule:

<u>Zoning District</u>	<u>TA</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>MU- CC</u>	<u>I-1</u>	<u>I-2</u>
<u>Sign Type</u>											
<b>Building Marker</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Identification</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Temporary</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Construction</b>	P	P	P	P	P	P	P	P	P	P	P
Real Estate	P	P	P	P	P	P	P	P	P	P	P
Incidental	P	P	P	P	P	P	P	P	P	P	P
<b>Subdivision</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Wall</b>	P	N	N	N	N	P	P	P	P	P	P
<b>Canopy</b>	P	N	N	N	N	P	P	P	P	P	P
<b>Window</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Projecting</b>	P	N	N	N	N	P	P	P	P	P	P
<b>Name Plate</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Monument</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Billboard</b>	N	N	N	N	N	N	N	N	N	N	N
<b>Pole</b>	N	N	N	N	N	N	N	N	N	N	N
<b>Roof</b>	N	N	N	N	N	N	N	N	P	N	N
<b>Blade</b>	N	N	N	N	N	N	N	N	P	N	N
<b>Marquee</b>	N	N	N	N	N	N	N	N	P	N	N

P: permitted N: not permitted C: Conditional Use

(Ordinance No. 873, 10-

15-02)

## 12. Special Signage Conditions

The following special conditions apply to stand-alone ATM's, Coffee Kiosks and other Kiosks.

A. Stand-alone ATM's may have the following:

- One (1) wall sign on each exterior wall provided each wall sign does not exceed ten (10) percent of the applicable exterior wall and the total shall not exceed forty (40) square feet in size.
- Where a canopy is integrated into the ATM, a canopy sign may be placed on each face of the ATM, provided the overall height of the canopy and sign do not exceed twenty-four (24) inches. In addition, the overall size of all canopy signs shall not exceed forty (40) square feet.
- Directional signage shall be contained on the ATM, painted within a drive lane or in any curbing defining a drive lane.
- All signs are subject to the required permitting process of this Ordinance.
- Said signage may be incorporated with lighting plan and backlit in order to provide for greater security on the premises.

B. Coffee Kiosks and other Kiosks may have the following:

- One wall sign per frontage, provided each wall sign does not exceed ten (10) percent of the applicable exterior wall and the total shall not exceed forty (40) square feet in size.
- Where a canopy is integrated into the Coffee Kiosks / Kiosks, a canopy sign may be placed on each face of the Coffee Kiosk / Kiosks, provided the overall height of the canopy and sign do not exceed twenty-four (24) inches. In addition, the overall size of all canopy signs shall not exceed forty (40) square feet.
- Directional signage shall be contained on the Coffee Kiosk /Kiosk, painted within a drive lane or in any curbing defining a drive lane
- Window signs limited to menu boards and daily specials shall not require a sign permit.
- All signs are subject to the required permitting process of this Ordinance, unless otherwise noted.

### 7.01.06 Permits Required

1. If a sign requiring a permit under the provision of the ordinance is to be placed, constructed, erected, or modified on a zone lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of Section 7.04.01.
2. Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign in accordance with Section 7.04.09.
3. No signs shall be erected in the public right-of-way except in accordance with Section 7.03.01.

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4. No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this ordinance (including those protecting existing signs) in every respect and with the Signage Plan in effect for the property.

## 7.01.07 Design, Construction, Maintenance

All signs shall be designed, constructed and maintained in accordance with the following standards:

1. All signs shall comply with applicable provisions of the Uniform Building Code and the National Electrical Code.
2. Except for flags, temporary signs, and window signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame or structure.
3. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes and in conformance with this code, at all times.

## Section 7.02 Signage Plans

### 7.02.01 General Provisions

1. No permit shall be issued for an individual sign requiring a permit unless and until an Individual Signage Plan or Master Signage Plan for the zoned lot on which the sign will be erected has been submitted to the City and approved by the Community Development Department as conforming with this section.
2. All signage plans and permits shall include the following minimum information:
  - A. Color scheme;
  - B. Lettering or graphic style;
  - C. Lighting;
  - D. Location of each sign on the buildings;
  - E. Material;
  - F. Sign proportions; and
  - G. Any other criteria required by the appropriate signage plan.

### 7.02.02 Master Signage Plan.

For any zoned lot on which the owner proposes to erect more than three (3) signs requiring a permit, the owner shall submit to the Community Development Department a Master Signage Plan containing the following:

1. An accurate plot plan of the zone lot, at such a scale as the Community Development Department may require;
2. Location of buildings, parking lots, driveways, and landscaped areas on such zone lot;
3. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the zone lot(s) included in the plan under this ordinance and
4. An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that incidental signs need not be shown.

### 7.02.03 Showing Window Signs on Master Signage Plan.

1. A Master Signage Plan including window signs may simply indicate the areas of the windows to be covered by window signs and the general type of the window (e.g., paper affixed to window, painted, etched on glass, or some other material hung inside window) and need not specify the exact dimension or nature of every window sign.

### 7.02.04 Limit Number of Free-Standing Signs Under Master Signage Plan.

1. The Master Signage Plan, for all zone lots with multiple uses or multiple users, shall limit the number of freestanding signs to a total of one (1) for each street on which the zone lots shall provide for shared or common usage of such signs.

### 7.02.05 Amendment.

1. A Master Signage Plan may be amended by filing a new Master Signage Plan that conforms to all requirements of the ordinance then in effect.

### 7.02.06 Existing Signs Not Conforming to Master Signage Plan.

1. If any new or amended Master Signage Plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within two (2) years, all signs not conforming to the proposed amended plan or to the requirements of this ordinance in effect on the date of submission.

### 7.02.07 Binding Effect.

1. After approval of a Master Signage Plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this ordinance. In case of any conflict between the provisions of such a plan and any other provision of this ordinance, the ordinance shall control.

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## Section 7.03 Other Signage Provisions

### 7.03.01 Signs in the Public Right-of-Way

No signs shall be allowed in the public right-of-way, except for the following:

1. **Permanent Signs.** Permanent signs, including:
  - A. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, advertise community events, and direct or regulate pedestrian or vehicular traffic;
  - B. Bus stop signs erected by a transit company
  - C. Informational signs of a public utility regarding its poles, lines, pipes, or facilities; and
  - D. Awning, projecting, and suspended signs projecting over a public right-of-way in conformity with the conditions of Section 1.16.

### 7.03.02 Temporary Signs

A permit for temporary signs shall be issued only in accordance to the Master Fee Schedule and for signs meeting the following criteria:

1. *Construction and real estate signs are exempt from a temporary sign permit provided they meet the requirements set forth hereafter and in Section 7.01.05(5) of this Ordinance.*
2. Such signs shall not be in place for more than fourteen (14) consecutive days, *except that Real Estate signs may be in place until the property sale is finalized and construction signs may be in place until that construction phase is completed;*
3. No more than four (4) temporary permits shall be issued to an individual use in a calendar year;
4. *Construction Signs shall be located on the property being constructed. Advertisement on business trailers or vehicles are exempt from a temporary sign permit and size restriction, except that such trailers or vehicles must be removed when construction by that company on said property is completed.*
5. Any violation of this Section may void any future requested permits; and
6. No temporary sign shall be of such size, message, or character so to harm the public, health, safety or general welfare. *Temporary signs shall not exceed thirty-two (32) square feet.*

**(Ordinance No. 874, 10-15-02) (Ordinance No. 898, 2-04-03)**

### 7.03.03 Emergency Signs (Permitted)

1. Emergency warning signs erected by a governmental agency, public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

### 7.03.04 Other Signs Forfeited

1. Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition, to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

### 7.03.05 Signs Exempt from Regulation Under this Ordinance

The following signs shall be exempt from regulation under this ordinance:

Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance;

Any religious symbol;

Any sign identifying a public facility or public / civic event, including signs for public school facilities;

Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zone lot or parcel on which such sign is located

Holiday lights and decorations with no commercial message;

Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets the Manual on Uniform Traffic Control Devices standards and which contain no commercial message of any sort; and

A political sign exhibited in conjunction with the election of political candidates. Such signs may not exceed thirty-two (32) square feet in any zone. Only four (4) political signs shall be allowed per zone lot at any one time. All such political signs shall be removed no later than (10) days after the election. **(Ordinances No. 1184, 9-18-12)**

### 7.03.06 Signs Prohibited Under These Regulations

All signs not expressly permitted in these regulations or exempt from regulation hereunder in accordance with the previous section are prohibited in the city. Such signs include, but are not limited to:

1. Beacons and flashing signs;
2. Video signs;
3. Portable signs, except as allowed by a Temporary Sign Permit;

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4. Pole signs;
5. Suspended signs;
6. Strings of lights not permanently mounted to a rigid background, except those exempt under the previous section;
7. Off-premises signs, except for signs located on outdoor public or quasi-public recreational areas/facilities, provided such signs are located in a manner approved by the City (such as not facing adjacent street right-of-way or residential zoning districts) and are no larger than 32 square feet." *(Ordinance No. 951, 3-15-05)*
8. Animated signs, except for roof signs and electronic message boards, as permitted by this ordinance; and
9. Audible Signs.

## **Section 7.04 Permit Procedures**

### **7.04.01 General Permit Procedures**

1. The following procedures shall govern the application for, and issuance of, all sign permits under this ordinance, and the submission and review of Master Signage Plans.

### **7.04.02 Applications**

1. All applications for sign permits of any kind and for approval of a Master Signage Plan shall be submitted to the City on an application form or in accordance with application specifications published by the City.

### **7.04.03 Fees**

1. Each application for a sign permit or for approval of a Master Signage Plan shall be accompanied by the applicable fees, which shall be established in the Master Fee Schedule.

### **7.04.04 Completeness**

1. Upon receiving an application for a sign permit or for a Master Signage Plan, the Community Development Department shall review it for completeness. If the Community Development Department finds that it is complete, the application shall then be processed. If the Community Development Department finds that it is incomplete, the Community Development Department shall send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this ordinance.

### **7.04.05 Action**

Within fourteen (14) working days of the submission of a complete application for a sign permit, the Community Development Department shall either:

1. Issue the sign permit, if the sign(s) that is the subject of the application conforms in every respect with the requirements of this ordinance and applicable Master Signage Plan; or
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 ordinance and the applicable Master Signage Plan. In case of a rejection, the Community Development Department shall specify in the rejection the section or sections of the ordinance or applicable plan with which the sign(s) is inconsistent.

### **7.04.06 Permits to Construct or Modify Signs**

1. All signs shall be erected, installed, or created only in accordance with a duly issued and valid sign construction permit from the Community Development Department. Such permits shall be issued only in accordance with the following requirements and procedures.

### **7.04.07 Permit for New Sign or for Sign Modification**

1. An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimensions, design, structure, and location of each particular sign, to the extent that such details are not contained on a Master Signage Plan then in effect for the zone lot.

### **7.04.08 Inspection**

1. The Community Development Department shall cause an inspection of the zone lot for which each permit for a new sign or for modification of an existing sign is issued during the sixth month after the issuance of such permit or at such earlier date as the owner may request. If the construction is not substantially complete at the time of inspection, the permit shall lapse and become void. If the construction is complete and in full compliance with this ordinance and the building and electrical codes, the Community Development Department shall affix to the premises a permanent symbol identifying the sign(s) and the applicable permit by number or other reference. If the construction is substantially complete but not in full compliance with this ordinance and applicable codes, the Community Development Department shall give the owner or applicant notice of the deficiencies and shall allow an additional thirty (30) days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If the construction is then complete, the Community Development Department shall affix to the premises the permanent symbol described above.

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2. The permanent symbol shall remain affixed to approved sign. If removed the approved permit may become voided and said owner may be in violation and subject to any applicable fines.

## 7.04.09 Sign Permits — Continuing

1. The owner of a zone lot 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 Master Signage Plan.

## 7.04.10 Initial Sign Permit

1. An initial sign permit shall be automatically issued by the Community Development Department covering the period from the date of inspection of the completed sign installation, construction, or modification through the last day of that calendar year.

## 7.04.11 Lapse of Sign Permit

1. A sign permit shall lapse automatically if the business license for the premises lapses, is revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of one hundred eighty (180) days or more and is not renewed within thirty (30) days of a notice from the city to the last permittee, sent to the premises, that the sign permit will lapse if such activity is not renewed.

## 7.04.12 Assignment of Sign Permits

1. 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, subject only to filing such application as the Community Development Department may require and paying any applicable fee. The assignment shall be accomplished by filing and shall not require approval.

## 7.04.13 Sign Removal Required

1. A sign that was constructed, painted, installed, or maintained in conformance with a permit under this ordinance, but for which the permit has lapsed or not been renewed or for which the time allowed for the continuance of a nonconforming sign has expired, shall be forthwith removed, by the owner, without notice or action from the city.

## 7.04.14 Violations

1. Any of the following shall be a violation of these regulations and shall be subject to the enforcement remedies and penalties provided by the La Vista Zoning Ordinance, and by state law:
  - A. To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the zone lot on which the sign is located;
  - B. To install, create, erect, or maintain any sign requiring a permit without such permit;
  - C. To fail to remove any sign that is installed, created, erected, or maintained in violation of this ordinance, or for which the sign permit has lapsed.
  - D. To continue any such violation. Each day of a continued violation shall be considered a separate violation when applying the penalty portions of this ordinance.
  - E. Each sign installed, created, erected, or maintained in violation of this ordinance shall be considered a separate violation when applying the penalty portions of this ordinance.

## Section 7.05 Off-Street Automobile Storage.

7.05.01 Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of two hundred fifty (250) square feet per parking space shall be used.

7.05.02 If vehicle storage space or standing space required in section 7.06 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Chief Building Official, the Chief Building Official may permit such space to be provided on other off-street property, provided such space lies within four hundred (400) feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. (*Ordinance No. 975, 12-20-05*)

7.05.03 All parking spaces for *residential, commercial, industrial, public or quasi-public uses* shall be paved with asphalt or concrete. (*Ordinance No. 975, 12-20-05*) All parking spaces for *permitted temporary uses* not located on the same lot as a permitted principle use may be exempt from a

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*paved surface but shall have access to a hard-surface road and have a rock drive for emergency vehicles. (Ordinance No. 994, 6-6-06)*

7.05.04 Parking spaces for outdoor recreational uses in the Transitional Agriculture (TA) District may have a surface of compacted gravel or crushed rock contained within a distinct border and having a depth of four inches. However, upon rezoning to a district other than TA, these parking areas shall be paved with asphalt or concrete within three (3) years. Paved parking stalls, sidewalks, and other improvements, in both number and design to comply with the Americans with Disabilities Act (ADA), the Nebraska Accessibility Guidelines, and Section 7.08 of this Ordinance, shall still be constructed within and surrounding such crushed rock parking areas.

7.05.05 Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

7.05.06 In Districts R-1, R-2, R-3, and R-4, required off-street parking shall be provided on the lot on which it is located the use to which the parking pertains. In other Districts, such parking may be provided either on the same lot or an adjacent or other lot provided the lot on which the use requiring them is located are not separated by more than three hundred (300) feet at closest points, measured along a street or streets.

7.05.07 Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.

7.05.08 Some uses may require two (2) different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require a tabulation for classrooms and assembly areas)

7.05.09 In Districts R-3 and R-4, multi-family, apartment, and condominium dwellings shall have a minimum of 0.5 enclosed garages per unit. The required garages may count towards the total number of parking spaces required as per Section 7.06. Multi-family, apartment, and condominium developments approved by the City prior to May 17, 2011 shall be exempt of this requirement. (Ordinance No. 1146, 5-17-11)

## Section 7.06 Schedule of Minimum Off-Street Parking Requirements (Ordinance No. 1070, 8-19-08)

Uses	Parking Requirements
<b>Adult Entertainment Establishments</b>	One (1) space per 100 sq. feet of gross floor area; plus one (1) space per employee on peak shift
<b>Amusement Arcades</b>	One (1) space for each 100 sq. feet of gross floor area, in addition to one (1) space for each employee on the maximum shift
<b>Animal Specialty Services</b>	One (1) space per 300 sq. feet of gross floor area
<b>Bed and Breakfast/Boarding House</b>	One (1) space per rental unit
<b>Churches, Synagogues, and Temples</b>	One (1) space per 4 seats in main worship area
<b>Social clubs or Fraternal Organizations</b>	One (1) space per 500 sq. feet of gross floor area
<b>Commercial Uses</b>	
<b>Agricultural Sales / Service</b>	One (1) space per 500 sq. feet of gross floor area
<b>Automotive Rental / Sales</b>	One (1) space per 500 sq. feet of gross floor area
<b>Automotive Repair Services</b>	Three (3) spaces per repair stall
<b>Bars, Taverns, Nightclubs</b>	One (1) space per 100 sq. feet of gross floor area, including outside seating; plus one (1) space per employee on peak shift
<b>Equipment Rental / Sales</b>	One (1) space per 500 sq. feet of gross floor area
<b>Campground</b>	One (1) space per camping unit
<b>Communication Services</b>	One (1) space per 500 sq. feet of gross floor area
<b>Construction Sales / Services</b>	One (1) space per 500 sq. feet of gross floor area
<b>Convenience Store with Limited Fuel Sales</b>	One (1) space per 200 sq. feet of gross floor area; spaces adjacent to fuel pump are included in total number
<b>Food Sales (limited)</b>	One (1) space per 300 sq. feet of gross floor area
<b>Food Sales (general)</b>	One (1) space per 200 sq. feet of gross floor area
<b>General Retail Sales Establishments</b>	One (1) space per 200 sq. feet of gross floor area
<b>Laundry Services</b>	One (1) space per 200 sq. feet of gross floor area
<b>Restaurants w/ Drive-thru</b>	One (1) space per 150 sq. feet of gross floor area; plus five (5) stacking spaces for drive through window
<b>Restaurants (General)</b>	One (1) space per four (4) seats or 1 per 100 sq. feet of gross floor area, including outside seating (whichever is greater); plus one (1) space per employee on peak shift
<b>Nursing Home</b>	One (1) space per 3 beds plus 1 per employee on the largest shift.
<b>Child Care Center</b>	One (1) space per employee plus (one) 1 space per 10 children.
<b>Educational Uses, Primary facilities - Kindergarten, Elementary School, Junior High</b>	Two (2) spaces per classroom
<b>Educational Uses, Secondary Facilities - High School</b>	Eight (8) spaces per classroom plus 1 space per teacher
<b>Funeral Homes and Chapels</b>	Eight (8) spaces per reposing room
<b>Group Care Home</b>	One (1) space per 4 residents plus one additional space for each employee
<b>Health Club</b>	One (1) space per 200 sq. feet of gross floor area, plus one space for each employee on peak shift

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<b>Hospitals</b>	One and one-half (1 1/2) spaces per 2 licensed beds; plus, .75 times the maximum number of employees during the largest shift
<b>Hotels and Motels</b>	One (1) space per rental unit
<b>Housing (Congregate)</b>	
Assisted-living facilities	One (1) space per dwelling unit plus 1 space per employee on the largest shift
Duplex	Two (2) spaces per dwelling unit
Multi-family / Apartments / Condominiums	One (1) space per bedroom (See Section 7.05.08 for additional requirements) <i>(Ordinance No. 1146, 5-17-11)</i>
<b>Industrial Uses / Flex Space for Industrial</b>	One (1) space per 3,000 sq. feet of gross floor area
<b>Libraries</b>	One (1) space 500 sq. feet of gross floor area
<b>Medical Clinics</b>	One (1) space per 250 sq. feet of gross floor area
<b>Mobile Home Park</b>	Two (2) per dwelling unit
<b>Offices and Office Buildings</b>	One (1) space per 200 sq. feet of gross floor area
<b>Recreational Facilities</b>	One (1) space per four (4) occupants or, in the case of a nonstructural facility, one (1) space per four (4) persons the facility is intended to accommodate
<b>Residential (Single-family, attached and detached)</b>	Two (2) spaces per dwelling unit with 1 required to be enclosed
<b>Roadside Stands</b>	Four (4) spaces per stand
<b>Special and Vocational Training</b>	One (1) space per 500 sq. feet of gross floor area
<b>Theaters, Auditoriums, and Places of Assembly</b>	One (1) space per 4 seats
<b>Veterinary Establishments / Pet Health Services</b>	One (1) space for every 300 sq. feet of gross floor area (excluding floor area used for keeping and caring for large farm animals)
<b>Wholesaling / Distribution Operations</b>	One (1) space per 5,000 sq. feet of gross floor area

## **Section 7.07 Off-street Parking: Shared Parking requirements**

7.07.01 Notwithstanding the provisions of Section 7.06, in cases of shopping centers having 400,000 or more square feet of gross floor area and where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in the center is likely to occur, compliance with the standard retail parking ratios may be decreased by the Planning Commission and City Council. Said request for a decrease in parking spaces shall be accompanied by a rezoning to a Planned Unit Development (PUD) and the request is made during the PUD application process. All regulations of the PUD District shall be adhered to within the development.

7.07.02 Where convention centers, conference centers, assembly halls, ballrooms, or other similar facilities are built in conjunction with a hotel, office park, or shopping center, the Planning Commission and City Council may permit the construction of fewer parking spaces, due to overlapping usage of a portion of the parking spaces. Said request for a decrease in parking spaces shall be accompanied by a rezoning to a Planned Unit Development (PUD) and the request is made during the PUD application process. All regulations of the PUD District shall be adhered to within the development.

## **Section 7.08 Off-Street Parking: Parking for Individuals with Disabilities**

7.08.01 In conformance with the Americans with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided in each parking area in conformance with the table in this section. Spaces required by the table need not be provided in the particular lot. They may be provided in a different, if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured.

Total Parking Spaces	Column A Required Minimum Number of Accessible Spaces	Column B Minimum Number of Van- Accessible Parking Spaces (1 of 6 available spaces)
1 to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	2
301 to 400	8	2
401 to 500	9	2
501 to 1,000	2 percent of the total	1/6 of Column A
1,001 and over	20 plus 1 for each 100 over 1,000	1/6 of Column A

7.08.02 Except as provided in Section 7.08.02.01 of this Ordinance, access aisles adjacent to accessible spaces shall be sixty (60) inches (1525 mm) wide minimum. *(Ordinance No. 899, 2-04-03)*

7.08.02.01 One (1) in every eight (6) accessible spaces, but not less than one, shall be served by an access aisle ninety-six (96) inches (2440 mm) wide minimum and shall be designated "van accessible" as required by Section 7.08.04 of this Ordinance. The vertical clearance at such spaces shall comply with 7.08.05 of this Ordinance. All such spaces may be grouped on one (1) level of a parking structure.

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Parking access aisles shall be part of an accessible route to the building or facility entrance. Two (2) accessible parking spaces may share a common access aisle.

Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with slopes not exceeding 1:50 (2%) in all directions, except for angled parking spaces which must have access aisles located on the passenger side of the parking spaces.

7.08.02.02 If passenger-loading zones are provided, then at least one (1) passenger loading zone shall comply with 7.08.06 of this Ordinance.

7.08.02.03 At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 7.08 of this Ordinance shall be provided in accordance with 7.08.01 of this Ordinance; except as follows:

1. Outpatient units and facilities: ten percent (10%) of total number of parking spaces provided serving each such outpatient unit or facility;
2. Units and facilities that specialize in treatment or services for persons with mobility impairments: twenty percent (20%) of the total number of parking spaces provided serving each such unit or facility.

7.08.02.04 Valet parking: valet parking facilities shall provide a passenger loading zone complying with 7.08.06 of this Ordinance located on an accessible route to the entrance of the facility. Sections 7.08.01, 7.08.02.01, and 7.08.02.03 of this Ordinance do not apply to valet parking.

7.08.03 Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.

7.08.03.01 In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.

7.08.03.02 In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.

7.08.04 Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying 7.08.02.01 shall have an additional sign "Van Accessible" mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space. ADA mandates the sign height be at least sixty (60) inches above ground surface measured from the bottom of the sign.

7.08.05 Minimum vertical clearance of one hundred fourteen (114) inches (2895mm) at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 7.08.02.01, provide minimum vertical clearance of ninety-eight (98) inches (2490mm) at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).

7.08.06 Passenger Loading Zones shall provide an access aisle at least sixty (60) inches (1525mm) wide and twenty (20) feet (240inches) (6100mm) long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

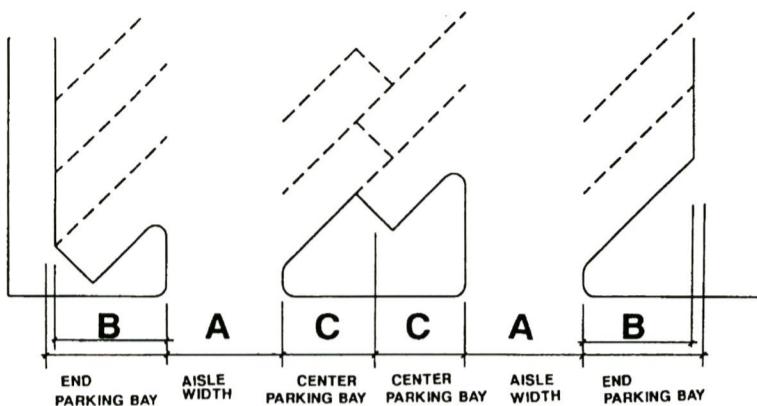
## Section 7.09 Off-Street Parking Design Criteria

7.09.01 Standard parking stall dimensions shall not be less than nine (9) feet by eighteen (18) feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five (5) feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two (2) feet. Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

Parking Configuration			
	90-degree	60-degree	45-degree
<b>Aisle Width (A)</b>			
One-way traffic	-----	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
<b>End Parking Bay Width (B)</b>			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet	17 feet
<b>Center Parking Bay Width (C)</b>	18 feet	18 feet	16 feet

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7.09.02 Minimum dimensions for a parallel parking space shall be nine (9) feet by twenty-three (23) feet.

7.09.03 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and City Council upon recommendation of the City Engineer.

## **Section 7.10 Home Occupations**

The following are the minimum standards required for a Home Occupation:

7.10.01 *No external evidence of the home occupation with the exception of one unlighted nameplate of not more than two (2) square foot in area attached flat against the building located on local or collector streets. However, four (4) square feet in area attached flat against the building located on arterial streets.*

7.10.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.

7.10.03 No more than twenty-five percent (25%) of the home, *not to exceed four hundred (400) square feet*, can be used for the home occupation, *except for Child Care Home. This percentage is inclusive of any detached accessory buildings used for the Home Occupation.*

7.10.04 Home occupations shall be operated on-site by no more than one full-time or part-time employee, volunteer, or business partner other than the resident(s) of the dwelling unit, provided that one off-street parking space is made available and used by that non-resident employee, volunteer, or business partner.

7.10.05 Unless expressly permitted by a Conditional Use Permit, no retail sales are permitted from the site.

7.10.06 No outdoor storage is permitted.

7.10.07 Additional off-street parking may be required for the business.

7.10.08 *If home occupation is for a business office for services rendered at another location then not more than two (2) business or employee vehicles parked on or adjacent to the home occupation property at any one time; provided only one said vehicle may be allowed to park on street right-of-way. Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage; provided one (1) piece of equipment shall be counted as one (1) of the two (2) business or employee vehicles allowed. For the purpose of enforcement of the home occupation provisions of this ordinance, a piece of construction equipment parked on a trailer shall be counted as a single business vehicle. A trailer being pulled by another vehicle, however, shall be counted as two (2) vehicles. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business or employee vehicles.*

7.10.09 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.

7.10.10 *A Home Occupation License shall be required for Home Occupation I uses. Such license shall include, but not be limited to, the following:*

7.10.10.1 Application fee in accordance with the Master Fee Schedule

7.10.10.2 For major Home Occupations requiring a Conditional Use Permit, a minimum of seventy-five percent (75%) of the households within two hundred feet (200') of the proposed home operation of such home provided by the City and said occupation shall indicate no objections, in writing, to the occupation. A "no objections" signature form shall be residents shall sign next to their respective address.

7.10.10.3 A Conditional Use Permit is required for Home Occupation I uses, except Child Care Homes.

7.10.11 *A Conditional Use Permit is required, except for Home Occupation II uses and Child Care Homes.*

7.10.12 *Child Care Homes and Child Care Centers shall require a certificate (CRED 9911) signed by the State of Nebraska Fire Marshall.*

7.10.13 All fees shall be paid in accordance with the Master Fee Schedule.

7.10.14 All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebr. R. R. S. 1943, Sec. §71-1911. **(Ordinance No. 884, 11-19-02)**

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## Section 7.11 Wireless Communication Towers

### 7.11.01 Purpose and Legislative Intent.

The Telecommunications Act of 1996 affirmed the City of La Vista's authority concerning the placement, construction, and modification of wireless telecommunications facilities. The City of La Vista finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character, and environment of the City and its inhabitants. The City also recognizes that facilitating the development of wireless service technology can be an economic development asset to the City and of significant benefit to the City and its residents. In order to ensure that the placement, construction, or modification of wireless telecommunications facilities is consistent with the City's land use policies, the City is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this section is to minimize impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the residents of the City of La Vista.

### 7.11.02 Definitions.

For purposes of this section, and where not inconsistent with the context of a particular subsection, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given here. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

7.11.02.01 "Accessory Facility or Structure" means an accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

7.11.02.02 "Applicant" means any wireless service provider submitting an application for a conditional use permit for wireless telecommunications facilities.

7.11.02.03 "Antenna" means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

7.11.02.04 "Co-location" means the use of an existing tower or structure to support antennae for the provision of wireless services. A replacement tower that is constructed on the same site as an existing tower will be considered a co-location as long as the new tower is no taller than the old tower and that the old tower is removed in a reasonable short time frame after the new tower is constructed.

7.11.02.05 "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 could not have been reasonably anticipated or foreseen and that 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 "commercial impracticable" and shall not render an act or the terms of an agreement "commercially impracticable".

7.11.02.06 "Completed Application" means an application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

7.11.02.07 "Distributed Antenna System or DAS" means a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure.

7.11.02.08 "FAA" means the Federal Aviation Administration, or its duly designated and authorized successor agency.

7.11.02.09 "FCC" means the Federal Communications Commission, or its duly designated and authorized successor agency.

7.11.02.10 "Height" means, when referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, including antennas or lightning protection devices.

7.11.02.11 "Modification" or "Modify" means, the addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible

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components, vehicular access, parking and/or an upgrade or change out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications Site as a co-location is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

7.11.02.12 "NIER" means Non-Ionizing Electromagnetic Radiation.

7.11.02.13 "Personal Wireless Facility" See definition for 'Wireless Telecommunications Facilities.'

7.11.02.14 "Personal Wireless Services" or "PWS" or "Personal Telecommunications Service" or "PCS" shall have the same meaning as defined and used in the 1996 Telecommunications Act.

7.11.02.15 "Repairs and Maintenance" means the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernible components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

7.11.02.16 "Stealth" or "Stealth Technology" means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless Telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

7.11.02.17 "Telecommunications" means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

7.11.02.18 "Telecommunication Site" See definition for Wireless Telecommunications Facilities.

7.11.02.19 "Telecommunications Structure" means a structure used in the provision of services described in the definition of 'Wireless Telecommunications Facilities.'

7.11.02.20 "Temporary" means, in relation to all aspects and components of this section, something intended to, or that does not exist for more than ninety (90) days.

7.11.02.21 "Tower" means any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

7.11.02.22 "Wireless Telecommunications Facilities" means and includes a "Telecommunications Site" and "Personal Wireless Facility". It means a structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit, towers of all types and kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

## 0.0.03 Overall Policy and Desired Goals for Conditional Use Permits for Wireless Telecommunications Facilities.

In order to ensure that the placement, construction, and modification of wireless telecommunications facilities does not negatively impact the health and safety of the public, environmental features, the nature and character of the community and neighborhood, and other aspects of the quality of life specifically listed elsewhere in this section, the City hereby adopts an overall policy with respect to a conditional use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

0.0.03.01 Requiring a conditional use permit for any new, co-location or modification of a wireless telecommunications Facility.

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- 0.03.02 Implementing an application process for person(s) seeking a conditional use permit for wireless telecommunications facilities.
- 0.03.03 Establishing a policy for examining an application for and issuing a conditional use permit for wireless telecommunications facilities that is both fair and consistent.
- 0.03.04 Promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers.
- 0.03.05 Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
- 0.03.06 That in granting a conditional use permit, the City has found that the facility shall be the most appropriate site insofar as it is the least visually intrusive among those available in the City.

0.04 Exceptions from a Conditional Use Permit for Wireless Telecommunications Facilities.

- 0.04.01 Except as otherwise provided by this ordinance no person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, wireless telecommunications facilities as of the effective date of this ordinance without having first obtained a conditional use permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this section, no conditional use permit shall be required for those non-commercial exclusions noted in Section 7.11.05.
- 0.04.02 All legally permitted wireless telecommunications facilities, constructed as permitted, existing on or before the effective date of this section shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing Wireless telecommunications Facility will require the complete facility and any new installation to comply with this ordinance.
- 0.04.03 Repair and Maintenance of a Wireless Facility does not require an application for a conditional use permit.

7.11.05 Exclusions.

The following shall be exempt from Section 7.11:

- 7.11.05.01 The City's fire, police, public works or other public service facilities owned and operated by the local government and/or public entities in partnership with the local government.
- 7.11.05.02 Over-the-Air reception Devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
- 7.11.05.03 Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications.
- 7.11.05.04 Facilities used exclusively for providing unlicensed spread spectrum technology i.e. Bluetooth or a 'Hot Spot', where the facility does not require a new tower, where the service is not to be used for commercial purposes, where there is no fee or charge for the use of the service and where the service is intended to be useable for less than a distance of 200 feet.

7.11.06 Conditional Use Permit Application and Other Requirements

- 7.11.06.01 Unless noted elsewhere in this section, all tower Development permits are governed by the regulations in Article 6: conditional use permits.
- 7.11.06.02 No wireless telecommunications facilities shall be installed, constructed or modified until the application is reviewed and approved by the City, and the conditional use permit has been issued.

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7.11.06.03 Any and all representations made by the applicant to the City on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the City.

7.11.06.04 The applicant shall include a statement in writing:

1. That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner, and in compliance with all conditions of the conditional use permit, without exception, unless specifically granted relief by the City in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable City, State and Federal laws, rules, and regulations;
2. That the construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the State.

7.11.06.05 In addition to all other required information as stated in Section 6 of this ordinance, all applications for the construction or installation of new wireless telecommunications facilities or modification of an existing facility shall contain the information hereinafter set forth.

- a. A completed City of La Vista Planning and Zoning Application Form;
- b. A descriptive statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements;
- c. Documentation that demonstrates and proves the need for the wireless telecommunications facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage;
- d. The location of nearest residential structure;
- e. The location, size and height of all existing and proposed structures on the property which is the subject of the application;
- f. The azimuth, size and center-line height location of all proposed and existing antennae on the supporting structure;
- g. The number, type and model of the antenna(s) proposed with a copy of the specification sheet;
- h. The make, model, type and manufacturer of the tower and design plan stating the tower's capacity to accommodate multiple users
- i. A site plan describing the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- j. The frequency, modulation and class of service of radio or other transmitting equipment;
- k. The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;
- l. Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the Wireless Telecommunication Facility with the proposed installation will be in full compliance with the current FCC RF Emissions guidelines (NIER). If not categorically excluded, a complete RF Emissions study is required to provide verification;
- m. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;
- n. A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;
- o. A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for a proposed or existing tower site and if existing tower or water tank site, a copy of the installed foundation design.

7.11.06.06 The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.

7.11.06.07 In the case of a new tower, the applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing

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tower(s) or the use of alternative buildings or other structures within the City. Copies of written requests and responses for shared use shall be provided to the City in the application, along with any letters of rejection stating the reason for rejection.

7.11.06.08 In order to better inform the public, in the case of a new Telecommunication tower, the applicant shall, prior to the public hearing on the application, hold a "balloon test". The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the City. The applicant shall inform the City, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 am and 4:00 pm on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday. A report with pictures from various locations of the balloon shall be provided with the application.

7.11.06.09 The applicant shall examine the feasibility of designing the proposed tower to accommodate future demand for at least four (4) additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least four (4) additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:

- a) The foreseeable number of FCC licenses available for the area;
- b) The kind of wireless telecommunications facilities site and structure proposed;
- c) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
- d) Available space on existing and approved towers.

7.11.06.10 The owner of a proposed new tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other Wireless service providers in the future, and shall:

1. Respond within 60 days to a request for information from a potential shared-use applicant;
2. Negotiate in good faith concerning future requests for shared use of the new tower by other Telecommunications providers;
3. Allow shared use of the new tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
4. Failure to abide by the conditions outlined above may be grounds for revocation of the conditional use permit.

7.11.06.11 The applicant shall provide certification with documentation (structural analysis) including calculations that the Telecommunication Facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads.

7.11.06.12 If the proposal is for a co-location or modification on an existing tower, the applicant is to provide signed documentation of the tower condition such as an ANSI report as per Annex E, tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.

7.11.06.13 All proposed wireless telecommunications facilities shall contain a demonstration that the Facility will be sited so as to minimize visual intrusion as much as possible, given the facts and circumstances involved and will thereby have the least adverse visual effect on the environment and its character and on the residences in the area of the wireless telecommunications facility.

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7.11.06.14 If the proposal is for a new tower, an antenna attachment to an existing structure, or modification adding to a visual impact, the applicant shall furnish a Visual Impact Assessment, which shall include:

1. If a new tower or increasing the height of an existing structure is proposed, a computer generated “Zone of Visibility Map” at a minimum of one mile radius from the proposed structure, with and without foliage shall be provided to illustrate locations from which the proposed installation may be seen.
2. Pictorial representations of “before and after” (photo simulations) views from key viewpoints both inside and outside of the City as may be appropriate, including but not limited to State highways and other major roads; parks; other public lands; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at the pre-application meeting. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure.
3. A written description of the visual impact of the proposed facility including; and as applicable the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

7.11.06.15 The applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility.

7.11.06.16 The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the City.

7.11.06.17 All utilities at a wireless telecommunications facilities site shall be installed underground whenever possible and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

7.11.06.18 At a Telecommunications Site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

7.11.06.19 All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

7.11.06.20 A holder of a conditional use permit granted under this ordinance shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.

7.11.06.21 There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site.

7.11.06.22 An applicant shall submit to the City the number of completed applications determined to be needed at the pre-application meeting. Written notification of the application shall be provided to the legislative body of all adjacent municipalities as applicable and/or requested.

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7.11.06.23 The holder of a conditional use permit shall notify the City of any intended modification of a wireless telecommunication facility and shall apply to the City to modify, relocate or rebuild a wireless telecommunications facility.

## 7.11.07 Location of Wireless Telecommunications Facilities

7.11.07.01 Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, one (1) being the highest priority and six (6) being the lowest priority.

1. On existing towers or other structures on city owned properties, including the right-of-way.
2. On existing towers or other structures on other property in the City
3. A new tower on City-owned properties
4. A new tower on properties in areas zoned for Heavy Industrial use
5. A new tower on properties in areas zoned for Light Industrial use
6. A new tower on properties in areas zoned for Transitional Agricultural use

7.11.07.02 If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

7.11.07.03 An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the City why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.

7.11.07.04 Notwithstanding the above, the City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

7.11.07.05 The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.

7.11.07.06 Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an application for any of the following reasons.

1. Conflict with safety and safety-related codes and requirements;
2. Conflict with the nature or character of a neighborhood or district;
3. The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
4. The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the City, or employees of the service provider or other service providers;
5. Conflicts with the provisions of this ordinance.

## 7.11.08 Shared Use of Wireless Telecommunications Facilities and Other Structures

7.11.08.01 The City, as opposed to the construction of a new tower, shall prefer locating on existing towers or other structures without increasing the height. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within two (2) miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing tower or other suitable structure cannot be used.

7.11.08.02 An applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.

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7.11.08.03 Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.

7.11.09 Height of Telecommunications Tower(s)

7.11.09.01 The applicant shall submit documentation justifying the total height of any tower, facility and/or antenna requested and the basis therefore. Documentation in the form of propagation studies must include all backup data used to perform at requested height and a minimum of ten (10') feet lower height to allow verification of this height need. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.

7.11.09.02 No tower constructed after the effective date of this section, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with City, State, and/or any Federal statute, law, local law, city ordinance, code, rule or regulation.

7.11.10 Visibility of Wireless Telecommunications Facilities.

7.11.10.01 Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.

7.11.10.02 Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this ordinance.

7.11.10.03 If lighting is required, applicant shall provide a plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

7.11.11 Security of Wireless Telecommunications Facilities.

7.11.11.01 All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

1. All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
2. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

7.11.12 Signage

7.11.12.01 Wireless telecommunications facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

7.11.13 Lot Size and Setbacks

7.11.13.01 All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed tower or wireless telecommunications Facility structure plus ten percent (10%) of the height of the tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

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## 7.11.14 Retention of Expert Assistance and Reimbursement by applicant

7.11.14.01 The City may hire any consultant and/or expert necessary to assist the City in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any site inspections.

## 7.11.15 Application Fee

At the time that a person submits an application for a conditional use permit for a new tower, such person shall pay a non-refundable fee as established in the Master Fee Schedule.

## 7.11.16 Performance Security

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the City a bond, or other form of security acceptable to the City as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a tower facility and \$25,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the City to assure the faithful performance of the terms and conditions of this ordinance and conditions of any conditional use permit issued pursuant to this ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the conditional use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original conditional use permit.

## 7.11.17 Reservation of Authority to Inspect Wireless Telecommunications Facilities

In order to verify that the holder of a conditional use permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

## 7.11.18 Liability Insurance

7.11.18.01 A holder of a conditional use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the conditional use permit in amounts as set forth below:

1. Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
2. Automobile Coverage: \$1,000,000 per each accident;
3. Workers Compensation and Disability: Statutory amounts

7.11.18.02 For a wireless telecommunications facility on City property, the Commercial General Liability insurance policy shall specifically include the City and its officers, Councils, employees, committee members, attorneys, agents and consultants as additional insureds.

7.11.18.03 The insurance policies 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.

7.11.18.04 The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least ten (10) days prior written notice in advance of the cancellation of the insurance for non-payment or 60 days for all other reasons.

7.11.18.05 Renewal or replacement policies or certificates shall be delivered to the City at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

7.11.18.06 Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than fifteen (15) days after the granting of the conditional use permit, the holder of the conditional use permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

## 7.11.19 Indemnification

7.11.19.01 Any application for wireless telecommunication facilities that is proposed for City property, pursuant to this ordinance, shall contain a provision with respect

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to indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the City, and its officers, Councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the City, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

7.11.19.02 Notwithstanding the requirements noted in Section 7.11.19.01, an indemnification provision will not be required in those instances where the City itself applies for and secures a conditional use permit for wireless telecommunications facilities.

## 7.11.20 Default and/or Revocation.

If a Wireless telecommunications Facility is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this ordinance or of the conditional use permit, then the City shall notify the holder of the conditional use permit in writing of such violation. A permit holder in violation may be considered in default and subject to fines as in Section 25 and if a violation is not corrected to the satisfaction of the City in a reasonable period of time the conditional use permit is subject to revocation.

## 7.11.21 Removal of Wireless Telecommunications Facilities.

7.11.21.01 Under the following circumstances, the City may determine that the health, safety, and welfare interests of the City warrant and require the removal of wireless telecommunications facilities.

1. Wireless telecommunications facilities with a permit have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;
2. Permitted wireless telecommunications facilities fall into such a state of disrepair that it creates a health or safety hazard;
3. Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required conditional use permit, or any other necessary authorization and the conditional use permit may be revoked.

7.11.21.02 If the City makes such a determination as noted in Section 7.11.21.01, then the City shall notify the holder of the conditional use permit for the wireless telecommunications facilities within forty-eight (48) hours that said wireless telecommunications facilities are to be removed, the City may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.

7.11.21.03 The holder of the conditional use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or Commercial Impracticability, within ninety (90) days of receipt of written notice from the City. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the City.

7.11.21.04 If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within ninety (90) days after the permit holder has received notice, then the City may order officials or representatives of the City to remove the wireless telecommunications facilities at the sole expense of the owner or conditional use permit holder.

7.11.21.05 If, the City removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not

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claim and remove it from the site to a lawful location within ten (10) days, then the City may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.

7.11.21.06 Notwithstanding anything in this Section to the contrary, the City may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected wireless telecommunications facilities shall be developed by the holder of the conditional use permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of the conditional use permit and the City. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the City may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this Section.

## 7.11.22 Relief

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this ordinance may request such, provided that the relief or exemption is contained in the submitted application for either a conditional use permit, or in the case of an existing or previously granted conditional use permit a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the City in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the City, its residents and other service providers.

## 7.11.23 Periodic Regulatory Review by the City

7.11.23.01 The City may at any time conduct a review and examination of this entire ordinance.

7.11.23.02 If after such a periodic review and examination of this ordinance, the City determines that one or more provisions of this ordinance should be amended, repealed, revised, clarified, or deleted, then the City may take whatever measures are necessary in accordance with applicable law in order to accomplish the same. It is noted that where warranted, and in the best interests of the City, the City may repeal this entire ordinance at any time.

7.11.23.03 Notwithstanding the provisions of Sections 7.11.23.01 and 7.11.23.02, the City may at any time and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this ordinance.

## 7.11.24 Adherence to State and/or Federal Rules and Regulations

7.11.24.01 To the extent that the holder of a conditional use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a conditional use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

7.11.24.02 To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a conditional use permit for wireless telecommunications facilities, then the holder of such a conditional use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

## Section 7.12 Fences

No fence shall be constructed within the zoning jurisdiction of the City of La Vista unless a permit therefore is approved and issued by the Chief Building Official and is constructed in conformance with the following requirements:

7.12.01 The height limitation for fences shall be six feet (6') above ground level except as provided herein.

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7.12.01.01 A fence constructed within a front yard of a residential lot and vegetation used as a barrier, screen, or fence along and parallel to the front line of a residential lot, shall not exceed forty-two (42) inches in height.

7.12.01.02 A fence constructed within the portion of a side yard of a residential lot that lies in front of a line extending perpendicularly from the side lot line to the front corner of the structure that is closest to such side lot line, shall not exceed four feet (4') in height, except that if the lot is located on a corner, as defined in Article 2 of this Ordinance, a fence constructed within a side yard along the side lot line which is adjacent to a street shall not exceed six feet (6') in height.

7.12.01.03 *The height limitation for fences in an Industrial District shall be eight feet (8') above ground level.* Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than eight feet (8') in height may be approved through a Conditional Use Permit (**Ordinance No. 1124, 07-20-10**)

7.12.01.04 Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet (8') in height.

7.12.01.05 Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet (8') in height.

7.12.02 Fences located within a front or side yard of a residential lot must qualify within the definition of an open fence, except that solid fences may be constructed along a side lot line parallel and adjacent to the lot line that is adjacent to a Commercial District or an Industrial District. A solid fence may be constructed in a side yard parallel and adjacent to the lot line that is adjacent to a street.

7.12.03 No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.

7.12.04 The use of barbed wire in the construction of any fence is prohibited except:

7.12.04.01 Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the City before commencement of construction.

7.12.04.02 Farm fencing constructed for agricultural purposes on parcels of land twenty (20) acres or more in the Transitional Agricultural District.

7.12.05 All supporting posts for fence construction shall be set in concrete except for agricultural fencing.

7.12.06 All fences shall be maintained in good repair.

7.12.07 All fences shall be located inside the boundaries of the property upon which constructed except where two (2) adjacent property owners pursuant to written agreement filed with the City agree to build one (1) fence on the common lot line of adjacent side yards or back yards.

7.12.08 Electric Fences. No electric fence shall be constructed or maintained within the City of La Vista or within its extraterritorial zoning jurisdiction except in TA-Transitional Agriculture District as hereinafter provided. An owner or lessee of such property may, upon application to the City and approval by the Chief Building Official, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Chief Building Official shall approve any electrified fencing, he shall determine that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.

7.12.09 Facing. The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two (2) or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.

7.12.10 Perimeter Fencing. *All fencing along an arterial or other perimeter road or street in a subdivision shall be consistent in style, type, material, height and color. Such fence shall be approved by the City based upon existing subdivision and adjacent subdivisions. If not prescribed within the subdivision agreement to be installed all at once, each fence shall require a fence permit and be consistent with the first fence on the perimeter, or in the case of an established subdivision, replacement fences shall be consistent with the dominant fence style, type, material, height, and color. Such requirements shall also pertain to street side yard fencing of lots on the corner of the subdivision entrance(s). (Ordinance No. 1007, 9-19-06)*

7.12.11 Any existing fence constructed pursuant to a permit issued and approved by the City of La Vista which was in conformity with the prior to the provisions of this Ordinance may remain without change in accordance with this section notwithstanding same may be in conflict with one (1) or

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more provisions of this section as amended; provided, however, and replacement or change of said existing fence or addition of a new fence, must hereby meet the requirements of this section as amended hereby.

## **Section 7.13 Storage or parking of vehicles, boats, campers and trailers**

No lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of La Vista shall be used for any of the following:

7.13.01 The storage or keeping of motor vehicles not having a property issued current motor vehicle registration and current motor vehicle license plate property displayed; provided, however, that the following shall not constitute a violation of this subparagraph.

7.13.01.01 The storage of unlicensed and/or unregistered motor vehicles in a fully enclosed garage.

7.13.01.02 The storage or keeping of operable off-highway farm or industrial vehicles on tracts zoned Transitional Agricultural Residence (TA) or any Industrial District and used in agricultural or industrial activity conducted on said premises.

7.13.01.03 The storage of not more than one (1) passenger type motor vehicle in good operable condition and shielded from view of the general public by a manufactured and fitted vehicle cover and located on a hard surfaced driveway pursuant to a permit to so store obtained from the City Clerk which permit shall be issued for a fee as established in the Master Fee Schedule to the applicant and shall:

1. Be issued for a period not to exceed six (6) months and shall be renewable upon application for like periods as long as such storage is in all respects in compliance herewith.
2. Identify the vehicle by make, year of manufacture, model and manufacturer's identification number;
3. State the reason the vehicle does not bear a current registration and license;
4. Require owner to prove continued operability of the vehicle upon request of the Police Department; and
5. Contain the property owner's and vehicle owner's consent for the City and its agents to enter upon the premises and vehicle for purpose of determining continued operability of the vehicle; and shall be revocable upon owner's failure to comply with any of the terms thereof.

7.13.02 The storage, keeping or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, except in enclosed buildings or garages or where otherwise authorized by the La Vista zoning regulations.

7.13.03 Parking, storage, or keeping, other than in a fully enclosed garage, of any non-operable motor vehicle on any lot zoned residential, provided, however, that automobiles that are non-operable solely by reasons of repair work being done thereon may be parked on residential lots within the La Vista zoning jurisdiction occupied by the owner of said automobile, under the following conditions:

7.13.03.01 The automobile is owned by the occupier of the premises and registered to him/her at that address.

7.13.03.02 The period of said repair work does not exceed ten (10) days in duration;

7.13.03.03 Said repair work is at all times conducted on a hard surface driveway; and

7.13.03.04 No more than one (1) automobile in need of repair is situated on the premises at the same time.

Before the City removes a vehicle suspected of violation hereof by reason of it being inoperable the City shall give the owner of the premises upon which the offending vehicle is situated a seventy-two (72) hour warning notice which may be given by either tagging the motor vehicle or by sending notice by regular mail, postage prepaid, to the occupier of the premises upon which the motor vehicle is situated. Any motor vehicle not removed from the premises within such seventy-two (72) hour period shall be presumed to be inoperable and may thereafter be removed by the City. If he chooses, the owner may demonstrate operability of the vehicle by making special arrangements with the La Vista Police Department to demonstrate within said seventy-two (72) hour period. The operability of the vehicle and, if such operability is satisfactorily demonstrated, the automobile need not be removed.

7.13.04 No motor vehicle as defined by section 60-301 of Nebraska State Statutes (or boat, camper or trailer in excess of 15 feet in length or 10 feet in height) shall be parked in the front, side or rear yard of any lot zoned residential except on paved driveways or other hard surfaced areas as designed and provided for in Article 2; provided that;

Boats, campers, trailers or any combination thereof not exceeding two (2) may be parked in the side or rear yard of lots zoned residential from October through April of each year without being parked on a hard surface. A camper or boat situated on a trailer shall be considered as one (1) vehicle.

Said boats, campers and trailers together with accessory structures shall not occupy more than thirty-five percent (35%) of the required rear yard.

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Notwithstanding the foregoing, it shall be permissible to park motor vehicles in the yards of residential lots on areas which are not paved as driveways or otherwise hard surfaced for a period not to exceed seventy-two (72) hours, when on-street parking is illegal by reason of Section 5-708 of this code and as allowed by special permit to accommodate temporary guests or visitors for no more than fourteen (14) days. Any motor vehicle, boat, camper or trailer parked, stored or kept in violation of the provisions hereof may be removed by the City. All towing, storage and other costs of removal pursuant to this section shall be solely at the expense of the owner of the premises from which the vehicle, boat, camper or trailer is situated, and if the owner is different than the occupier of the premises, then both owner and occupier shall be jointly and severally liable. In addition, the City, upon certifying the same to the county treasurer, shall have a lien against the premises in the full amount of such removal costs, together with interest at the highest legal rate that the City is authorized by law to collect on special assessments.

## **Section 7.14 Keeping of Animals**

Animals may be kept within the zoning jurisdiction of the City of La Vista subject to the following restrictions:

7.14.01 No bees or livestock including but not limited to sheep, goats, cattle or swine shall be allowed within residential or commercial zoning districts.

7.14.02 No bird or fowl shall be allowed within residential or commercial zoning districts. Grandfather rights shall be granted upon application to the City so that this section will not apply to bird or fowl owned, kept or harbored prior to the original effect date of this section, subject to the following conditions:

7.14.02.01 No more than two (2) fowl of any one (1) species or a total of more than five (5) fowl shall be allowed on any one (1) residence or dwelling unit. All fowl shall be confined to the premises of the residence or dwelling unit of the person owning, keeping or harboring such fowl.

7.14.02.02 No fee will be charged for filing the permit application.

7.14.02.03 The permit application must be filed on or before October 1, 1981.

7.14.02.04 The rights granted under any such permit shall not be transferable to a replacement fowl.

7.14.03 Horses and other members of the horse family shall be allowed on any piece of property zoned Transitional Agricultural (TA) and containing at least one (1) acre of land. One (1) such animal is allowed on the first (1<sup>st</sup>) acre and an additional animal is allowed for each additional two (2) acres of land.

7.14.04 The keeping of dogs, cats, rabbits, pigeons and household pets shall be permitted accessory use in residential and commercial districts subject to the regulations for kennels as defined in Article 2 of this Ordinance and the provision found in Title 9, Chapter 95 of the La Vista Municipal Code. For the purposes of this section, a "household pet" is any animal or creature kept inside a residential dwelling not outside, and in no event shall include any of the following: any live monkey (non-human primate), raccoon, skunk, fox, poisonous or dangerous insect or reptile, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal which can normally be found in the wild state. The keeping of pigeons is subject to the following conditions.

7.14.04.01 Such birds shall be banded with some form or identification.

7.14.04.02 Such birds shall be confined in sanitary, secure structures subject to inspection and approval by the City of La Vista.

7.14.04.03 No more than ten (10) such birds shall be allowed on any one (1) piece of property.

7.14.04.04 Trained pigeons may be exercised under supervision of owner or trainer and be trained to recall on command.

7.14.04.05 A permit for the keeping of such birds shall be obtained from the City of La Vista.

7.14.05 The restrictions contained in this Section 7.14 shall not apply to any pet store or veterinary services.

## **Section 7.15 Solar Energy Conversion Systems**

Solar Energy Conversion Systems (SECS) are permitted in all zoning districts as an accessory use to any lawfully permitted principal use on the same lot upon issuance of the proper permit and upon compliance with all requirements of this section and as elsewhere specified in this Ordinance. Building-integrated solar energy systems, as defined in this Ordinance, are not considered an accessory use and are not subject to the requirements of this Section.

7.15.01 **Height and Lot Requirements:** Solar Energy Conversion Systems (SECS) shall conform to the required height and lot requirements provide herein:

7.15.01.01 Building-Mounted SECS that are attached to a building on a lot shall comply with the height, front, side, rear yard, and max. building coverage requirements of the building to which they are attached, except as otherwise allowed in Section 7.15.01.04.

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7.15.01.02 For a Building-Mounted SECS installed on a sloped roof that faces the front yard of a lot, the system must be installed at the same angle as the roof on which it is installed with a maximum distance, measured perpendicular to the roof, of eighteen (18) inches between the roof and highest edge or surface of the system.

7.15.01.03 For a Building-Mounted SECS installed on a sloped roof, the highest point of the system shall not exceed the highest point of the roof to which it is attached.

7.15.01.04 For a Building-Mounted SECS installed on a flat roof, the highest point of the system shall be permitted to extend up to six (6) feet above the roof to which it is attached, and the system shall not extend horizontally past the roof line.

7.15.01.05 Ground-Mounted SECS may be located only in the required rear yard as Permitted Accessory Uses. Ground-Mounted SECS may be located outside of the rear yard, but behind the front building line, with an approved Conditional Use Permit.

7.15.01.06 Ground-Mounted SECS shall conform to the height and lot requirements for Accessory Buildings in the zoning district in which the system is to be constructed, except that the system may not exceed 12-feet in height.

7.15.01.06 Ground-Mounted SECS shall only be permitted in the following districts, subject to the requirements in this Ordinance: TA, R-1, R-2, R-3, R-4, I-1, I-2, and R-M.

**7.15.02 Structural Requirements:** The physical structure and connections to existing structures shall conform to the applicable City of La Vista Building Codes.

**7.15.03 Permit Requirements:** Before any construction or installation on any SECS system shall commence, a permit issued by the Building Department of the City of La Vista shall be obtained to document compliance with this Ordinance.

7.15.03.01 A permit fee shall be required, and the amount shall be established in the Master Fee Schedule.

7.15.03.02 The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.

**7.15.04 Inspection, Safety, Abandonment, and Removal:** The Chief Building Official and Fire Marshall reserve the right to inspect a SECS for building or fire code compliance and safety. If upon inspection the Chief Building Official or Fire Marshall determine that a fire code or building code violation exists, that the system has been abandoned, or that the system otherwise poses a safety hazard to persons or property, the Chief Building Official or Fire Marshall may order the owner to repair or remove the system within a reasonable time. Such an order shall be in writing, shall offer the option to repair, shall specify the code violation or safety hazard found and shall notify the owner of his or her right to appeal such determination. If the owner fails to repair or remove a SECS as ordered, and any appeal rights have been exhausted, an employee or independent contractor with the City of La Vista may enter the property, remove the system and charge the owner for all costs and expenses of removal, including reasonable attorney's fees or pursue other legal action to have the system removed at the owner's expense. In addition to any other available remedies, any unpaid costs resulting from the City of La Vista's removal of a vacated abandoned or de-commissioned SECS shall constitute a lien upon the property against which the costs were charged. Legal counsel of the City of La Vista shall institute appropriate action for the recovery of such cost, plus attorney's fees. A SECS shall be deemed abandoned or defective by the City of La Vista if it is out of use for a period of 12 months or more, at which time the property owner shall have six months to return the system back to service, or complete decommissioning of the SECS. Decommissioning includes the removal of the SECS, all associated equipment, footings and foundation system, and wiring. Upon removal, such property shall be returned to the same conditions that existed before the installation of the system.

**7.15.05 Preexisting SECS:** Section 7.15 of this Ordinance applies to Solar Energy Conversion Systems (SECS) installed and constructed after December 17, 2019. Any upgrade, modification or structural change that materially alters the size or placement of an existing SECS system shall comply with the provisions of this Ordinance.

**7.15.06 Signage and/or Graphic Content:** No signage or graphic content may be displayed on the solar PV system except the manufacturer's badge, safety information and equipment specification information. Said information shall be depicted within an area no more than thirty-six (36) square inches in size.

**7.15.07 Screening and Visibility:** Placement of SECS shall be prioritized in such a way that will minimize or negate any solar glare onto nearby properties and roadways. SECS are subject to the following:

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7.15.07.01 All SECS using a reflector to enhance solar production must minimize glare from the reflector that affects adjacent or nearby properties. Measures to minimize nuisance glare include selective placement of the system, screening on the north and south sides of the SECS, modifying the orientation of the system, reducing use of the solar reflector system, or other remedies that limit glare.

7.15.07.02 All SECS appurtenances, including, but not limited to, plumbing, water tanks and support equipment, shall be of a color that is complementary to the site location, and shall be screened to the extent reasonably feasible without compromising the effectiveness of the solar collectors. SECS shall comply with any applicable Design Guidelines of the appropriate district.

7.15.07.03 Building-mounted systems mounted on a flat roof shall require screening as to not be visible from elevation-perspective view. This can be accomplished with architectural screening such as a building parapet or by setting the system back from the roof edge in such a manner that the solar PV system is not visible from the public right-of-way.

## **Section 7.16 Performance Standards for Industrial Uses**

The following standards shall be met unless there are greater standards required by the United States Environmental Protection Agency or the Nebraska Department of Environmental Quality.

7.16.01 **Physical Appearance:** All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be *displayed or stored in the open, if the applicable zoning district permits*. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the *outdoor storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition. However, allowable outdoor storage or display shall be visually screened from public roadways and residential properties.* (Ordinance No. 1053, 01-15-08)

7.16.02 **Fire hazard:** No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the City of La Vista.

7.16.03 **Noise:** No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume *or in excess of eighty (80) decibels, whichever is greater.* (Ordinance No. 858, 3-5-02). Noise shall be measured at the property line, with a suitable instrument. (Ordinance No. 1053, 01-15-08)

7.16.04 **Sewage and Liquid Wastes:** No operation shall be carried on which involves the discharge of waste into a stormsewer, surface water, or the ground, *nor shall hazardous waste, detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations, be dumped into wastewater sewerage.* (Ordinance No. 1053, 01-15-08)

7.16.05 **Air Contaminants:**

7.16.05.01 Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one (1) four (4) minute period in each one-half (1/2) hour. Light colored contaminants of such an capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted

7.16.05.02 Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit, except for a period of four (4) minutes in any one-half (1/2) hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit.

7.16.05.03 Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.

7.16.05.04 **Odor:** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to

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classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Regulations.

7.16.05.05 **Gasses:** The gasses sulphur dioxide and hydrogen sulphide shall not exceed five (5) parts per million, carbon monoxide shall not exceed five (5) parts per million. All measurements shall be taken at the zoning lot line.

7.16.05.06 **Vibration:** All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousand (0.003) of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.

7.16.05.07 **Glare and heat:** All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.

## **Section 7.17 Landscaping Requirements**

### **7.17.01 Intent:**

The intent of the landscaping requirements are to improve the appearance of lot areas and soften paved areas and buildings; to provide a buffer between differing land uses; to minimize the adverse effect of uses from one another; to minimize the effect of heat, noise and glare; to conserve the value of property and neighborhoods within the community; and to enhance the physical environment within the City of La Vista by ensuring that yards, open spaces, parking lots and those areas abutting public rights-of-way are designed, installed and maintained in accordance with the provisions of this section.

Property development shall consider and respect land capabilities and constraints, minimize erosion and destruction of natural amenities and provide a buffer between differing land uses.

### **7.17.02 Application and Scope:**

The provisions of the section shall apply to all new construction and development including, but not limited to, structures, dwellings, buildings, parking lots, residential subdivisions, office parks, shopping centers, and redevelopment for which either a building or zoning permit approval is required, except the following:

7.17.02.01 Agricultural buildings, structures and uses.

7.17.02.02 Replacement of lawfully existing structures or uses.

7.17.02.03 Additions, remodeling or enlargements of existing uses or structures provided that the enlargement of surface parking is more than 4,000 square feet shall not be accepted. Where such enlargement is less than 4,000 square feet, the provisions of this section shall apply only to that portion of the lot or site where the enlargement occurs.

7.17.02.04 Where there is more than one lot or site being developed together as one unit with common property lines, the entire site shall be treated as one lot or site for the purpose of conforming to the requirements of this section.

1. When a lot or site with more than one ownership has been partially developed at the time of the adoption of this section. The application of the requirements of this section shall be determined by the City.

### **7.17.03 Landscaping Requirements:**

Landscaping shall be required and provided as follows:

7.17.03.01 Single-family and two-family dwellings shall provide and maintain a minimum of thirty percent (30%) of lot area as a permeable and uncovered surface that contains living material. Single-family and two-family dwellings shall be exempt from all other requirements of this section. The MU-CC District shall be exempt from all requirements of this section.

### **7.17.03.02 Street Frontage:**

A landscaped area having a minimum depth of fifteen feet (15') from the property line shall be provided along the street frontage of all lots or sites including both street frontage of corner lots.

1. The required landscaped area fifteen feet (15') may be reduced to ten feet (10') if an equal amount of square feet of landscaped area, exclusive of required side and rear yard landscaped areas, is provided elsewhere on the site.
2. Exclusive of driveways and sidewalks not more than twenty five percent (25%) of the surface of the landscaped area shall have

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inorganic materials such as brick, stone, concrete, asphalt, aggregate, metal or artificial turf.

3. A minimum of one (1) tree shall be planted for every forty lineal feet (40') or fraction thereof.

## 7.17.03.03

### **Side Yard:**

A landscaped area having a minimum depth of ten feet (10') from the property line shall be provided along the side yard abutting any Residential District.

1. Exclusive of driveways and sidewalks, not more than ten percent (10%) of the surface of the landscaped area shall be inorganic materials such as brick, stone, concrete, asphalt, aggregate, metal or artificial turf. If the slope of ground within the landscape area exceeds 2:1, not more than fifty percent (50%) of the surface shall be inorganic material.
2. Landscaping shall include a hedge screen or a random or informal screen of plant materials substantially blocking the views and attaining a minimum height of six feet (6') within four (4) years. A landscaped earth berm not exceeding six feet (6') in height may be used in combination with the plant materials.
3. A six foot (6') solid wood and/or masonry fence or wall, may be used in lieu of or in combination with the plant materials required in section 7.17.03.03 (1), provided that such fence is at least five feet (5') from the property line.

## 7.17.03.04

### **Rear Yard:**

A landscaped area having a minimum depth of ten feet (10') from the property line shall be provided along the rear yard abutting any Residential District or Transitional Agriculture District.

1. The landscape requirements for the rear yard shall be the same as for the side yard described in section 7.17.03.03.

## 7.17.03.05

### **Off-Site Parking Lots:**

Parking lots not located on the property where the use served is located, shall conform to this section provided that a parking lot with an area of four thousand (4,000) square feet or less shall be exempt from the requirements of this section.

## 7.17.03.06

### **Parking Area Interior Landscaping:**

Off-street parking lots, as defined in 7.17.03.05, and other vehicular use areas shall have at least ten (10) square feet of interior landscaping for each parking space excluding those spaces abutting a perimeter for which landscaping is required by other sections of this Ordinance, and excluding all parking spaces which are directly served by an aisle abutting and running parallel to such perimeter.

The front of a vehicle may encroach upon any interior landscaped area when said area is at least four (4) feet in depth per abutting parking space and protected by curbing. Two (2) feet of said landscaped area may be part of the required depth of each abutting parking space. No more than two (2) drive aisles shall be placed parallel to one another without an intervening planter aisle of at least four (4) feet in width; eight (8) feet is required if parking spaces overlap the curbs of the aisle.

## 7.17.03.07

### **Perimeter Landscaping:**

All commercial office and industrial developments, buildings, or additions thereto shall provide perimeter landscaping to include a minimum of one (1) tree for each forty (40) lineal feet of street frontage or fraction thereof. Such landscaped area shall consist of sufficient area for the species of tree to be planted. Other perimeter landscaping shall require approval of the City.

## 7.17.03.08

### **Plant Materials:**

Landscape living plant materials shall consist of trees, shrubs, ground covers, vines, grasses, flowers, and any other plants.

1. The plant nomenclature shall conform with the recommendations and requirements of the "American Standard for Nursery Stock", as amended, published by the American Association of Nurserymen, Inc.
2. Size. The minimum size of plant materials to be installed shall be as follows:
  - A. Deciduous trees shall have a minimum caliper of one and one-half inches (1-1/2").
  - B. Evergreen (conifer) trees shall have a minimum height of five feet (5').
  - C. Deciduous shrubs shall have a minimum size of three (3) gallons or a height of eighteen inches (18").
  - D. Evergreen shrubs shall have a minimum size of three (3) gallons or a spread of eighteen inches (18").

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- E. Ornamental grasses shall have a minimum size of one gallon (1 gal).

## 7.17.03.09 Planting Schedule:

The plant materials shall be installed prior to the issuance of the certificate of occupancy. If, because of seasonal reasons, the landscaping cannot be installed, a surety satisfactory to the City of La Vista equal to the contract cost shall be submitted to the City. The City shall release the surety when the plant materials have been installed. If the plant materials have not been installed within twelve (12) months of the effective date of the certificate of occupancy, the City may install the required landscaping.

## 7.17.03.10 Required Plans:

Upon application of a building permit, a landscape-planting plan shall be submitted to the City of La Vista for review and approval.

1. Three copies of the plan shall be submitted.
2. The plan shall include, but not be limited to, the following:
  - A. Property lines and other physical features necessary to show the proposed installation of plants.
  - B. The location and spacing of plant materials.
  - C. The scientific name, common name, plant size, quantity and planting method.
  - D. The plan shall have a scale of not more than one-inch (1") equals one hundred feet (100').
  - E. When necessary, existing and proposed contours shall be provided.

## 7.17.04 Screening Requirements

7.17.04.01 All parking areas or vehicular use areas abutting a residential district or public right-of-way shall be screened from grade level to a height not less than three (3) feet.

7.17.04.02 All commercial and industrial uses that abut residential or office districts shall provide screening not less than six (6) feet in height along the abutting property line(s).

7.17.04.03 Screening required by this section shall be equivalent to the following:

1. Solid fences or walls as approved by the City on the final development plan.
2. Hedges, shrubs, or evergreen trees of thirty-six (36) inches in height at planting spaced appropriately to provide a solid screen within three (3) years after planting.
3. Berms of not less than three (3) feet in height and that provide a maximum slope of 3:1 for easy maintenance. Such berms may be used in conjunction with plantings to achieve the solid visual screen as described in 7.17.04.03 (1) above.
4. All projects except one-and-two family dwellings shall include a detailed drawing on the landscape plan indicating the method of enclosure and screening to be used on trash dumpsters. All dumpsters or trash bins shall maintain a solid six (6) foot enclosure around each unit. Said enclosure shall be of complementary materials.
5. All plant material used for screening shall meet the standards in section 7.17.03.08.

7.17.04.04 The MU-CC District shall be exempt from all requirements of this section.

## 7.17.05 Installation and Maintenance of Landscaping and Screening:

### 7.17.05.01 Installation:

All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures. Landscaped areas shall require protection from vehicular encroachment. The Chief Building Official shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided. Temporary occupancy permits may be issued due to weather related conditions upon approval by the Chief Building Official.

### 7.17.05.02 Maintenance:

The owner, developer, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a healthy condition by necessary and appropriate measures. When replacement is necessary all plants and other non-living landscape materials shall be equal in size, density and appearance, at maturity, to those items requiring replacement when feasible. Underground sprinkler systems are encouraged to serve all landscaped areas except individual one and two family dwellings unless an equivalent watering system is approved by the Chief Building Official.

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All required screening and fencing shall be maintained and, whenever necessary, replaced with materials that provide equivalent size, density, and appearance. All landscaping and screening shall be kept free from refuse and debris so as to present a healthy, neat and orderly appearance. Turf grass shall be maintained on all areas not covered by other landscaping, parking, drives, buildings, or similar structures. Existing yards shall be maintained with grass or other approved ground cover.

## 7.17.06 Preliminary Plan Approval

A landscape plan indicating both proposed and existing landscaping and screening shall be submitted, with the preliminary plat, PUD, or preliminary site plan for development, for review and recommendation by City Staff. Said Plan shall be in sufficient detail to provide the City with a reasonable understanding of what is being proposed. Site calculations used in computing quantities shall also be submitted which are proposed to be used to satisfy the required amounts of landscaping.

## 7.17.07 Final Plan Approval

A detail listing of all plant materials to be used, quantities, size, and spacing shall be submitted to the City on separate sheets for review and recommendation and approval by the City Staff along with a planting schedule at final development plan submission.

## 7.17.08 Parking Lot Plan Approval

A final site development plan shall be submitted to the Chief Building Official with the necessary landscaping and screening required herein for each of the following types of parking lot improvements:

- 7.17.08.01 New construction.
- 7.17.08.02 Expansion of existing facilities.
- 7.17.08.03 Maintenance of existing facilities where an overlay is proposed at which time the landscaping and screening shall be required. Modifications to the required parking lot landscaping and screening may be granted by the Planning Commission after review of submitted plans and in consideration of surrounding uses.
- 7.17.08.04 No parking lot shall be exempted from these regulations; unless previously exempted.

## Section 7.18 Wind Energy Systems

In any zoning district, a conditional use permit may be granted to allow wind energy conversion system, including such devices as wind charger, windmill, or wind turbine; subject to the following condition:

- 7.18.01 The distance from any tower support base to any tower support base of another wind energy device under other ownership shall be a minimum of five (5) rotor distances figured by the size of the largest rotor.
- 7.18.02 The wind energy system operation shall not cause interference to the radio and television reception on adjoining property.
- 7.18.03 To limit climbing access to the tower, a fence six (6) feet high with a locking portal shall be placed around the tower base or the tower climbing apparatus shall be limited to no more than twelve (12) feet from the ground, or the tower may be mounted on a roof top.
- 7.18.04 The setback distances from all lot lines to any tower support base shall be determined according to the following setback table:

### 7.18.05 SETBACK TABLE

Rotor Diameter	Setback Distance	Minimum Lot Area <sup>1</sup>
5 feet	100 feet	1 Acre
10 feet	165 feet	2.5 Acres
15 feet	220 feet	4.5 Acres
20 feet	270 feet	6.75 Acres
25 feet	310 feet	9.0 Acres
30 feet	340 feet	10.75 Acres
35 feet or larger	365 feet	12.25 Acres

- 1. Where there are several towers under single ownership the minimum lot areas may be adjusted down provided the minimum setback distances are met on all perimeter units. In addition, the landing areas for all internal towers and rotors shall be within the property owned by the operator.

- 7.18.06 Data pertaining to the machine's turbine safety and stability shall be filed with the application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program.<sup>1</sup>
- 7.18.07 The application shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.

<sup>1</sup> U.S. Department of Energy – EPRI Wind Turbine Verification Program  
Electric Power Research Institute – 3412 Hillview Avenue, Palo Alto, California 94304

# ORDINANCE RECORD

No. 728—REDFIELD & COMPANY INC., OMAHA

SECTION 6. Amendment of Article 9. Article 9 of the Ordinance No. 848 is hereby amended to read as follows:

## ARTICLE 9: AMENDMENT

### Section 9.01 Amendments

Pursuant to Section 19-905, Reissue Revised Statutes of 1943 (in full): This Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed. In case of a protest against such change, signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending three hundred (300) feet therefrom, and of those directly opposite thereto extending three hundred (300) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the City Council. The provisions of this section of the Ordinance relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than eighteen (18) inches in height and twenty-four (24) inches in width with a white or yellow background and black letters not less than one and one-half (1 1/2) inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten (10) days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars (\$50) or more than one hundred dollars (\$100). The provisions of this section in reference to notice shall not apply: (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the City.

### Section 9.02 Planning Commission Review

No amendment, supplement, change or modification of this Ordinance, including the boundaries of any zoning district, shall be made by the City Council without first the consideration by the City Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Council within forty-five (45) days after receipt thereof. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.

In addition, any person or persons seeking such an amendment, supplement, change, or modification of any zoning district, shall comply with the following:

- 1.02.01 At the time that application for a change of zoning district or amendment to the zoning test is filed with the Planning Commission, there shall be deposited the sum set in Article 4, Section 4.23 as a fee to cover investigation, legal notices, or other expenses incidental to the determination of such matter.
- 1.02.02 An application for a change of district to an Light Industrial District shall contain a minimum area of five (5) acres. The area, if more than one (1) parcel of land is involved, shall be contiguous, exclusive of any streets or easements.
- 1.02.03 The foregoing requirements in Subsection b shall not apply in the case of an extension of a Light Industrial District.

### Section 9.03 Community Development Director and Chief Building Official

The provisions of this Ordinance shall be administered and enforced by the Community Development Director and Chief Building Official, or their designee(s), who shall have the power to make inspection of buildings or premises necessary to carry out his or her duties in the enforcement of this Ordinance.

### Section 9.04 Building Permits

The following shall apply to all new construction and all applicable renovations and remodels within La Vista's Zoning Jurisdiction:

- 9.04.01 It shall be unlawful to commence the excavation for the construction of any building, or any accessory buildings, or to commence the moving or alteration of any buildings, including accessory buildings, until the Chief Building Official has issued a building permit for such work.
- 9.04.02 Issuance of a building permit. In applying to the Chief Building Official for a building permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the Chief Building Official for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this Ordinance, and other Ordinances of the City then in force, the Chief Building Official shall issue a building permit for such excavation or construction. If a building permit is refused, the Chief Building Official shall state such refusal in writing, with the cause, and shall immediately mail notice of such

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refusal to the applicant at the address indicated upon the application. The Chief Building Official shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a permit shall, in no case, be construed as waiving any provisions of this Ordinance. A building or zoning permit shall become void twelve (12) months from the date of issuance unless substantial progress has been made by that date on the project described therein.

## **Section 9.05 Certificate of Occupancy**

No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Chief Building Official shall have issued a certificate of occupancy stating that such land, building or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Ordinance. Within three (3) days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Chief Building Official to make a final inspection thereof and to issue a certificate of occupancy if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Ordinance, or, if such certification is refused, to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application.

## **Section 9.06 Penalties**

Pursuant to Section 19-913, Reissue Revised Statutes of 1943 (in full), the owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars (\$100) for any one (1) offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. However, nothing shall deprive the citizen of his or her rights under the U.S. Constitution of a jury trial.

## **Section 9.07 Remedies**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of Sections 19-901 to 19-914, Reissue Revised Statutes of 1943 (in full), or this Ordinance, or any regulation made pursuant to said sections, the appropriate authorities of the City may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

SECTION 7. Repeal of Articles 2, 4, 5, 6, 7, and 9 as Previously Enacted. Articles 2, 4, 5, 6, 7, and 9 of Ordinance No. 848 as previously enacted are hereby repealed.

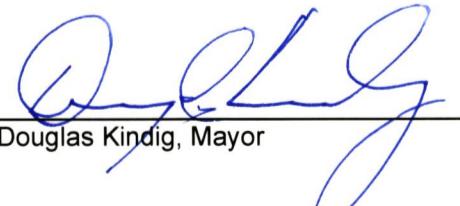
SECTION 8. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 9. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

SECTION 10. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED THIS 7TH DAY OF DECEMBER 2021.

CITY OF LA VISTA



Douglas Kindig, Mayor

ATTEST:



Pamela A. Bueche

Pamela A. Bueche, CMC  
City Clerk