

CHAPTER 25

ZONING

Article

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ARTICLE 1

TITLE, FINDINGS, PURPOSE

Section

25-1-1 Scottsbluff Zoning Code; citation.

25-1-2 Findings.

25-1-3 Purposes.

25-1-3.1 Jurisdiction.

25-1-4 Zones; location; maps.

25-1-5 to

25-1-90 Repealed.

25-1-1. Scottsbluff Zoning Code; citation.

This Chapter is known as the “Scottsbluff Zoning Code” and may be cited by that name. (Ord. 3639, 2000)

25-1-2. Findings.

The City Council finds that the regulations contained in the Scottsbluff Zoning Code are necessary to:

- (1) encourage the most appropriate use of land,
- (2) lessen congestion in the streets,
- (3) secure safety from fire, panic and other dangers,
- (4) provide adequate light and air and freedom from undue noise,
- (5) prevent overcrowding of land,
- (6) avoid undue concentration of population,
- (7) facilitate adequate provision for transportation, water, sewerage, schools, parks, and other public requirements,
- (8) protect properly from blight and depreciation,
- (9) protect the basis for taxation and secure economy in government, and
- (10) promote health, safety, morals and the general welfare. (Ord. 3639, 2000)

25-1-3. Purposes.

The purposes of this Zoning Code are to:

- (1) promote health, safety, morals and the general welfare of the community,
- (2) regulate and restrict the height, number of stories, and size of buildings and other structures,
- (3) regulate and restrict percentage of a lot or tract of land that may be occupied, the size of yards, courts, and other open spaces and the density of population,
- (4) regulate and restrict the locations and use of buildings, structures, lots, and tracts of land for trade industry, residence or other purposes,
- (5) divide the area subject to this Chapter into zones of the shape, size, and number which will best effectuate this Code, and
- (6) provide for effective enforcement of this Chapter. (Ord. 3639, 2000)

25-1-3.1. Jurisdiction.

As authorized by Chapter 16, Article 9 of the revised statutes of Nebraska, as such statutes may exist and may be subsequently amended, the city does hereby declare that all existing and future zoning regulations, property use regulations, building ordinances, electrical ordinances, plumbing ordinances and ordinances authorized by Neb. Rev. Stat. §16-240 are effective within the following described area, which area includes the entire City of Scottsbluff and certain areas outside the city:

Beginning at the intersection of South Broadway Avenue and the North Platte River, proceeding west along the north bank of the North Platte River to the Mitchell/Gering Canal, then generally west along the Mitchell/Gering Canal to the right-of-way of the Union Pacific Railroad, then northwest along the right-of-way of the Union Pacific Railroad to West 20th Street extended west, then east along West 20th Street extended west to the east bank of the North Platte River, then north along the east bank of the North Platte River to Tubb Springs Creek, then north along Tubb Springs Creek to Farmstead Road, then east along Farmstead Road to County Road 19, then north along County Road 19 to County Road H, then east along County Road H to County Road 20, then north along County Road 20 to the Tri-State Canal, then generally east along the Tri-State Canal to County Road G, then east along County Road G to the Dunham Andrew Drain, then south and east along the Dunham Andrew Drain to Winters Creek Canal, then south and west along Winters Creek Canal to Enterprise Drive, then south along Enterprise Drive to Winters Creek Canal, then east and south along Winters Creek Canal to County Road 25, then south on County Road 25 to County Road M, then west on County Road M to the half-section line which separates the west and east halves of Section 32, Township 22 North, Range 54 West of the 6th P.M., Scotts Bluff County, Nebraska, then south on this half-section line to the north bank of the North Platte River, then generally west along the north bank of the North Platte River to the Point of Beginning. (Ord. 3930, 2007)

25-1-4. Zones; location; maps.

The boundaries of the zoning districts created in this chapter are shown on the zoning district map which is made a part of this municipal code. The zoning district map and all information shown thereon shall have the same force and effect as if fully set forth and described herein. The official zoning district map shall be identified by the signature of the Mayor, attested by the City Clerk under the following statement:

This is to certify that this is the official zoning district map described in §25-1-4 of the Scottsbluff Municipal Code, passed this 17th day of September, 2018.(Ord. 4113, 2013; Ord. 4118, 2014; Ord. 4119, 2014; Ord. 4144, 2015; Ord. 4165, 2015; Ord. 4168; Ord. 4220, 2017; Ord. 4236, 2018)

ARTICLE 2 DEFINITIONS

Section

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<u>25-2-7</u>	<u>Arterial street.</u>
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<u>25-2-111</u>	<u>Sign, mobile.</u>
<u>25-2-112</u>	<u>Sign, extending.</u>
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<u>25-2-135</u>	<u>Use, Principal.</u>
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<u>25-2-137</u>	<u>Variance.</u>
<u>25-2-138</u>	<u>Yard.</u>
<u>25-2-139</u>	<u>Yard, front.</u>
<u>25-2-140</u>	<u>Yard, rear.</u>
<u>25-2-141</u>	<u>Yard, side.</u>
<u>25-2-142</u>	<u>Zoning district.</u>
<u>25-2-143</u>	<u>Zoning map.</u>

25-2-1. Words; usage.

The following words are used in this Chapter in the following manner:

- (1) “shall” and “must” mean that a person, organization, board, or association has a mandatory duty to act in the manner stated; such words are not used to declare a legal result,
- (2) “shall not,” “may not” and “must not” mean that a person, organization, board, or association has a mandatory duty to refrain from acting in the manner stated, and
- (3) “may” means that a person, organization, board, or association may, but is not required, to act in the manner stated. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-2. Accessory building.

A building detached from the main building which is located on the lot or tract of land and whose use is subordinate to, and appropriate and customarily incidental to the use of the main building. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-3. Adult book store.

The term “adult book store” means any establishment in which the preponderance of the material offered for sale, rent, or display is characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as those terms are defined in this Chapter. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-4. Alley.

A public way, usually situated at the rear of a lot, which serves as a secondary means of access to the abutting lot. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-5. All weather surfacing.

A surface consisting of four (4) inches of stabilized base overlaid with at least two (2) inches of gravel, concrete, or asphaltic surfacing. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-6. Apartment.

For purposes of a condominium property development, an enclosed space consisting of one or more rooms occupying all or part of a floor in a building of one or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any industry or business, or for any other type of independent use, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-7. Arterial street.

A through street designed to carry the accumulated traffic of other streets feeding into it through the City. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-8. Automobile service station.

A business place, located on premises that abut on a street or highway, which supplies motorists with gasoline, oil, tires and automobile accessories and services at retail direct to the motorist, including the making of minor repairs but excluding making such major repairs as:

- (1) spray painting,
- (2) axle, body, clutch, differential, fender, frame, spring and transmission repairs,
- (3) major engine overhaul requiring removal of the cylinder head or crankcase pan,
- (4) radiator repair requiring its removal, or
- (5) complete recapping or retreading of tires. The terms “filling station” and “service station” are included in this definition. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-9. Automobile wrecking yard.

An area outside a building:

- (1) where motor vehicles are disassembled, dismantled, wrecked or junked,
 - (2) where motor vehicles not in operating condition are stored, or
 - (3) where used parts for motor vehicles are stored.
- (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-10. Basement.

That part of a building, wholly or partly below grade level, in which the greater part of the distance between its floor and ceiling is below grade level. A basement is not counted as a story in computing the number of stories a building has. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-11. Billboard.

A billboard is an advertising sign which directs the attention of the public to a business/activity

conducted, or product sold or offered for sale at a location not on the same premises where such sign is located. (Ord. 4187, 2016; Ord. 4208, 2017)

25-2-12. Block.

An area enclosed by streets. When used as a term of measurement, it means:

- (1) the distance measured along the centerline of a street between two intersecting streets, or
- (2) if a dead-end street, the distance measured between the nearest intersecting street and the lot line abutting the dead end. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-13. Boarding, rooming, or lodging house.

A building other than a hotel where either lodging or meals or both, for five (5) or more persons are provided for compensation. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-13.1. Body piercing.

Body piercing means puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting removable jewelry or other objects through the human body, except that body piercing does not include puncturing the external part of the human ear lobe. (Ord. 4187, 2016; Ord. 4208, 2017)

25-2-13.2. Branding.

Branding means a permanent mark made on human tissue by burning with a hot iron or other instrument. (Ord. 4187, 2016; Ord. 4208, 2017)

25-2-13.3. Brewery.

Brewery shall mean any industrial use that brews ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined) annually. (Ord. 4208, 2017)

Note, this section has been renumbered by the City Clerk pursuant to 14-2-9

25-2-13.4. Brewery, Micro.

Micro Brewery shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution retail or wholesale, on or off premises, with a capacity of not more than 10,000 barrels per year. The development may include other used such as a standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district. (Ord. 4208, 2017)

Note, this section has been renumbered by the City Clerk pursuant to 14-2-9

25-2-13.5. Brew Pub.

Brew Pub and 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 50 percent of the total floor area of the commercial space. (Ord. 4208, 2017)

Note, this section has been renumbered by the City Clerk pursuant to 14-2-9

25-2-14. Building.

Any structure which has a roof supported by columns or walls, whether above or below ground level. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-15. Building coverage.

The percentage of the area of a lot or other tract of land which is covered by the maximum horizontal cross-section of a building or buildings located on it. Structures, including shelters for nuclear fallout, of which no part is above the grade of the lot, are not included in building coverage. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-16. Building line.

A line parallel, or nearly parallel, to either the street line or the lot line not abutting the street and at a specified distance from the street or lot line which marks the minimum distance from either line that a building may be erected. For buildings erected prior to June 10, 1974, the building line means the exterior wall or omitted wall line closest to the street or other lot line. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-17. Building, height of.

The distance measured vertically at the front of the building from the mean grade to the highest peak of the roof. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-18. Camper.

(See “travel trailer.”) (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-19. Carport.

A structure or a part of a structure, other than a garage, used to shelter motor vehicles. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-20. Child care center or preschool.

The term “child care center or preschool” means a place where care is provided:

- a. To four or more children under the age of 13 at any one time from families other than the provider’s own;
- b. Care may be provided any hour of the day, provided that any individual child may only be present for 12 hours or less per day;
- c. For compensation, either indirect or direct;
- d. On a regular basis;
- e. By a person other than their parents/guardians;
- f. In full compliance with all of the applicable laws and regulations of the State of Nebraska pertaining to day care, whether such laws and regulations exist at the time of the passage of this ordinance or are hereafter adopted. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-21. Clinic.

A place where care, diagnosis, and treatment of sick, infirm, or injured persons or those needing medical or surgical attention is provided, but where board, room, or overnight lodging is not provided. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-22. Club or lodge, private.

A building and facilities owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose, but not primarily for profit nor to render a service customarily carried on as a business. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-23. Cluster housing development.

A housing development comprising a group of tracts of real estate the areas of which are not required to comply individually within minimum lot area requirements, and which, for the purpose of compliance with minimum area requirements, may include the areas of common areas. Residential structures in such a development may have common walls, but the term does not include multi-story apartment type developments. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-24. Common areas.

An entire planned unit development except all spaces therein granted or reserved to separate ownership. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-25. Condominium.

An estate in real property consisting of an undivided interest in common in a portion of a lot, block or other tract of real estate, whether used for residential, business, commercial or industrial purposes, together with a separate interest in a building on such tract. A condominium may include, in addition, a separate interest in other portions of such real property. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-26. Condominium development.

An entire lot, block or tract of land, and all structures thereon, which are or are to be, owned under a condominium regime. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-27. Condominium Property Act.

The Condominium Property Act of the State of Nebraska or the Nebraska Condominium Act as set forth in the Nebraska statutes, as now existing or hereafter amended. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-27.1. Convenience Warehouse Storage Facility.

A series of storage spaces contained in one building or in a series of buildings which are designed and used for the purpose of renting or leasing individual storage spaces to persons in order that any person renting or leasing one or more of such individual storage spaces shall have access for the purpose of storing property therein. (Ord. 3924, 2006; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-28. Corral.

An enclosure designed for the confinement of livestock, within which livestock in excess of one hundred fifty (150) head at a particular time are confined. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-29. Court.

An open unoccupied space, other than a yard, on the same lot with a building or buildings and

bounded on one (1) or more sides by such building or buildings. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-30. Day Care.

The provision of care:

- a. To children under 13 years of age to 4 or more children at any one time from families other than the provider's own;
- b. Care may be provided any hour of the day, provided that any individual child may only be present for 12 hours or less per day;
- c. For compensation, either direct or indirect;
- d. On a regular basis;
- e. By a person other than their parents/guardians;
- f. In a single family detached dwelling unit;
- g. In full compliance with all of the applicable laws and regulations of the State of Nebraska pertaining to day care whether such laws and regulations exist at the time of the passage of this ordinance or are hereafter adopted. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-31. Decorative landscape feature.

Any structure or object, composed of any material, natural or artificial, erected, planted or positioned to enhance the visual or aesthetic value of the landscape of a tract of land. (Ord. 3868, 2005; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-32. Domestic violence shelter.

Any structure which is used primarily to provide temporary lodging and sanctuary for adult and child victims of domestic violence. No structure shall be considered a domestic violence shelter unless the following conditions are met:

- a. The shelter must be staffed by at least one person during the hours of operation in which the structure is occupied by a victim or victims.
- b. No more than five (5) adult victims may occupy the premises during a twenty-four (24) hour period.
- c. Occupancy by a victim of domestic violence shall not exceed seven (7) consecutive days. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-33. Dormitory.

A building or part of a building containing a room or rooms each designed or intended to be rented for occupancy by more than two (2) persons. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-34. Duplex.

A dwelling consisting of two (2) family units split horizontally. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-35. Dwelling.

A building, or part thereof, designed for residential occupancy. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-36. Dwelling unit.

A room, or group of rooms with kitchen facilities intended to be occupied as separate living quarters by a family, a group of persons living together, or a person living alone. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-37. Dwelling, one (1) family or single family.

A building designed exclusively for occupancy by only one (1) family. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-38. Dwelling, two (2) family.

A building designed exclusively for occupancy under one roof by two (2) families living independently of each other. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-39. Dwelling, multiple family.

A building, or a part thereof, designed for occupancy under one roof by four (4) or more families living independently of each other. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-40. Family.

- (1) a group of natural persons consisting of a man, his wife, any children born to either him or his wife, legally adopted by either him or his wife, or placed with either him or his wife as foster children, or any combination of these persons,
- (2) a group of natural persons as defined in (1) plus not more than six (6) other persons, at least three (3) of which must be related to some one of the persons described in (1) by blood, marriage, or legal adoption, or
- (3) a group of not more than three (3) natural persons living together who are not related. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-41. Family child care home.

The term “family child care home” means a place where care is provided:

- a. To four or more, but not exceeding twelve, children under age 13 at any one time from families other than that of the provider;
- b. For on the average of less than 12 hours per day;
- c. For compensation, either direct or indirect;
- d. On a regular basis;
- e. By a person other than their parents or guardians;
- f. In the home of the person providing the care;
- g. In full compliance with all the applicable laws and regulations of the State of Nebraska pertaining to child care, whether such laws and regulations exist at the time of the passage of this ordinance or are hereafter adopted. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-42. Feedlot.

An enclosure designed for the confinement of livestock or other commercially slaughterable animals or fowl, within which are confined at any particular time (not necessarily, repeatedly) animals or fowl, to which feed not grown within the enclosure is regularly provided, when a permit is required by NDEQ. (Ord. 3951, 2007; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-43. Fence.

Any tangible barrier or obstruction composed of any material, natural or artificial, placed for the purpose, or having the effect, or preventing passage or view across the barrier or obstruction. The term includes hedges and walls. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-44. Fence, Perimeter.

A fence which encloses, or substantially encloses, two or more contiguous or adjacent lots, blocks or tracts of land. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-45. Fence, Privacy.

Any fence erected or positioned to block a view of enclosed property. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-46. Fertilizer storage and mixing plant.

A facility where (1) fertilizer or raw materials used in the mixing or manufacturing of fertilizer are stored and (2) the component parts are mixed to make liquid and dry fertilizers or various combinations or blends of fertilizer. The term "fertilizer storage and mixing plant" shall not include the storage or sale of prepackaged fertilizer which does not require any mixing or blending prior to sale or distribution. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-47. Floor area.

The total number of square feet of floor space within the exterior walls of a building, not including space in cellars and basements. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-48. Floor area ratio.

The total floor area on a zoning lot divided by the lot area of that zoning lot. For example, a building containing twenty thousand (20,000) square feet of floor area on a zoning lot containing ten thousand (10,000) square feet of area has a floor area ratio of two (2) to one (1). (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-49. Frontage.

That part of a lot which abuts a public right-of-way or the principal means of access to the lot. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-50. Garage.

A structure, or part thereof, in which one (1) or more motor vehicles are housed, stored, kept, or repaired. It does not include an exhibition room, show room, or warehouse where cars kept for sale are stored. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-51. Garage, private.

An accessory building, or an accessory part of a principal building, which is primarily intended and used for storage of privately owned motor vehicles, boats, and trailers of the family or families residing on the premises where it is located but in which no business, service, or industry connected directly or indirectly with motor vehicles, boats, or trailers is carried on. It includes a carport. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-52. Garage, public.

A building where motor vehicles, boats, or trailers are painted, rebuilt, reconstructed, repaired, or stored for compensation. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-53. Grade.

The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-54. Gross floor area.

The total area of floor space within the exterior walls of a building. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-55. Home occupation.

A business or profession, or an aspect thereof, which is carried on within a dwelling, or a building accessory thereto, and which by custom in the community constitutes a use of the premises which is incidental to use of the premises for dwelling purposes. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-55.1. Emergency Shelter.

A residential facility operated by a government agency or by a private non-profit organization, which facility provides temporary accommodations to individuals or families who lack a fixed regular and/or adequate night-time residence. (Ord. 3965, 2008; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-56. Hotel/Motel

A building, or group of buildings, designed chiefly to provide for compensation for temporary lodging, with or without meals, containing individual sleeping units:

- (1) principally designed or used for temporary occupancy by tourists or transients,
- (2) with convenient parking space for each unit, and
- (3) with an entrance to each guest room or suite from an interior central hallway or independent exterior entrance. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-57. Junkyard.

A space of two hundred (200) square feet or more located on a lot or tract of land which is used to store, dismantle, demolish, process, or abandon junk, or abandoned vehicles. The term "junk" shall have the meaning given to it in Chapter 12-1-1(3). (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-58. Kennel, dog.

A building, structure or premises in or on which more than three (3) dogs, at least five (5) months of age, are harbored. The term does not include a dog pound operated by or under contract with the City. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-59. Living quarters.

One (1) or more rooms in a building designed for occupancy by one (1) or more persons which may be used for living or sleeping purposes. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-60. Lodge, private.

(See “Club, private.”) (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-61. Lodging house.

(See “Club, private.”) (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-62. Lot.

A single building site or a single parcel of land designated as a lot on a subdivision plat, a record of survey map, or described as such by metes and bounds, having sufficient area to accommodate a main building authorized, with respect to its location, by the municipal code. It includes two (2) or more previously separate lots, or parts of lots, combined as a single building site for use as a single parcel of land. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-63. Lot area.

The total area of a lot lying within its lot lines. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-64. Lot, corner.

A lot situated at an intersection of two or more streets whose intersection angle does not exceed one hundred thirty-five degrees. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-65. Lot coverage.

The percentage of lot area covered by the buildings and structures located on the lot. Buildings and structures include porches, breezeways, patio roofs, and like structures, but not fences or swimming pools. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-66. Lot depth.

The average of the maximum and minimum distances between the front lot line and the rear lot line of the building site. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-67. Lot, double frontage.

A lot which extends from street to street. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-68. Lot, interior.

A lot which is not a corner lot. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-69. Lot, key.

The first interior lot to the rear of a reversed corner lot. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-70. Lot line.

Any boundary line of a lot. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-71. Lot line, front.

- (1) for an interior lot, the line separating the lot from the street or place on which it abuts, and
- (2) for a corner lot, the line separating the lot from the street on which the majority of the lots in the block front. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-72. Lot line, rear.

The lot line directly opposite most distant from the front lot line. In the case of an irregularly shaped lot, it is the lot line, at least ten (10) feet long, which is parallel to, or most nearly so, and most distant from the front lot line. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-73. Lot line, side.

Any lot line which is neither a front or rear lot line. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-74. Lot of record.

A lot whose separate entity has been established by a plat recorded in the office of the Register of Deeds. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-75. Lot, reversed corner.

A corner lot the rear lot line of which abuts on the side lot line of another lot. . (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-76. Lot width.

The 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. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-77. Main building.

A building on a lot which is occupied by the primary use. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-78. Manufactured Home.

Manufactured home shall mean (a) 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 National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Health and Urban Development, or (b) a modular housing unit as defined in section 71-1557 of the Statutes of Nebraska bearing the seal of the Department of Health and Human Services Regulation and Licensure. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-79. Master deed.

A deed establishing a condominium property regime. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-80. Mobile home.

A movable or portable dwelling which:

- (1) is not less than eight (8) feet in width,
- (2) is not less than forty (40) feet in length,

(3) is so constructed as to be towable on its own chassis, and to function without a permanent foundation,

(4) can be connected to utilities, and

(5) has kitchen and sanitary facilities.

A mobile home may consist of one (1) or more units which can be telescoped when being towed and later expanded to create additional capacity, or it may consist of two (2) or more units which can be towed separately but are designed to be joined into an integral unit. A dwelling so constructed shall be deemed to be a mobile home whether or not mounted upon a temporary or a permanent foundation. Mobile homes must meet HUD standards. (Ord. 4072, 2012; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-81. Mobile home park.

A tract of land containing at least four and one-half (4½) acres owned by one (1) legal entity and licensed as required by Article 9 of this Chapter. (Ord. 3992, 2009; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-82. Mobile home planned unit development.

A mobile home development, on a lot or tract of land comprising not less than five (5) acres, which is characterized by an integrated and coordinated arrangement under which the mobile home dwelling units are individually owned, and all of the common open space, including but not necessarily limited to, parking areas and drives, are owned in common by the owners of the mobile home dwelling units or by an incorporated or cooperative association of which such owners are the members. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-83. Mobile home park drives.

Privately owned lanes and roadways within a mobile home park. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-84. Mobile home space.

A plot of ground within a mobile home park designated for the accommodation of one (1) mobile home. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-85. Municipal Uses.

A use of the land, or buildings, for municipal purposes such as water wells, parks, streets, alleys and other public infrastructure operated and maintained by the City. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-86. Nursing Home.

A home for aged, chronically ill or incurable persons in which three (3) or more persons not of the immediate family are received, kept and provided with food, or shelter and care for compensation. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-87. Occupancy.

The actual possession or use of a building, structure, lot, or tract of land. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-88. Open space.

Land areas which are not occupied by buildings, structures, streets, open visitor parking spaces or alleys, except approved landscaped features and active recreational facilities that are part of a Planned Unit Development. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-89. Open space, common.

Open space which is suitably located and improved for common recreational purposes, active or passive, and is accessible to each lot or dwelling within a planned unit development through a system of public or private walkways. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-90. Pharmacy.

Business premises wherein is carried on primarily the business of selling at retail of prescription and legal nonprescription drugs and medicines, and includes the selling at retail, as an incident to such business, of other medical supplies and equipment, personal care products and greeting cards. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-90.1. Permanent Color Technology.

Permanent color technology means the process by which the skin is marked or colored by insertion of non-toxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for cosmetic purposes. (Ord. 4187, 2016; Ord. 4208, 2017)

25-2-90.2. Permanent Cosmetic Facility.

A facility where procedures are performed in which permanent color technology is applied or pigment is applied with a needle, electronic machine, or other means to produce a permanent mark visible through the skin. Procedures include, but are not limited to the application of eyeliner, eyeshadow, lip, eyebrow or cheek color for the purpose of enhanced aesthetic; scar concealment; and/or repigmentation of areas involving reconstructive surgery or trauma. A permanent cosmetic facility must obtain appropriate licensure through the Nebraska Department of Health and Human Services for body art facilities. (Ord. 4187, 2016; Ord. 4208, 2017)

25-2-91. Person.

An individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-92. Property.

Land, leasehold interests in land, any building, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto or to any of such elements alone. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-93. Planned business center.

Any business or commercial development on a lot or tract of land which contains not less than five (5) acres and is characterized by an integrated or coordinated arrangement of stores, shops, offices, buildings, and facilities. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-94. Recreation areas.

The common open space which is usable for recreational purposes, whether or not developed with active facilities, such as swimming pools, tennis courts, recreational buildings, a clubhouse, or similar facilities located within a planned unit development. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-95. Recycling center.

A building in which aluminum and tin cans, glass and plastic containers, and newspapers and paper products, or any of these, are received, stored and compacted for subsequent transportation to a processing facility. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-96. Reversed frontage.

The situation in which the rear lot line of a corner lot abuts the side lot line of the adjacent interior lot. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-97. Rooming house.

(See "Boarding house.") (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-98. Satellite earth station, height.

The height of the dish measured vertically from the highest point of the dish, when positioned for operation, to the bottom of the base which supports the dish. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-99. Scrap metal processing facility.

An establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap-for sale for remelting purposes. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-100. Service building.

A building or buildings located in a mobile home park or trailer park which provide laundry and drying, toilet or bathing facilities to occupants of the park. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-101. Setback line.

A line, as shown on a recorded plat or otherwise established by the City Council, beyond which no part of a main exterior wall of a building or structure may project. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-102. Setback line, front.

The setback line at the front of the lot. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-103. Setback line, rear.

The setback line at the rear of the lot. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-104. Setback line, side.

The setback line at either side of the lot. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-104.1. Sight triangle.

An area at a street intersection in which no buildings shall be erected or placed and no trees, bushes or shrubs shall be planted in a manner which impedes vision between a height of 2 ½ feet and 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, 50 feet in each direction along the centerline of the streets. At the intersection of major arterial streets, the 50-foot distance shall be increased to 100 feet for each leg of the intersection. (Ord. 3931, 2007; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-105. Sign.

Any device containing elements or symbols, organized or related, which is designed to inform or to attract the attention of persons not on the premises on which the sign is located; provided, however, that mailbox numbers or names, government flags or insignia, legal notices, governmental identification, information or direction signs, shall not be included within this definition. (Ord. 3931, 2007; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-106. Sign, area of.

The entire area within any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure, or character. The area of a sign having no such perimeter or border shall be computed by enclosing the entire area with parallelograms, squares, rectangles, triangles or circles of the smallest size sufficient to cover the entire area of the sign and computing the area of these parallelograms, squares, rectangles, triangles or circles. The area computed shall be the maximum portion or portions which may be viewed from any one direction. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-107. Sign structure.

The supports, uprights, bracing, guy rods, cables and frame work of a sign or outdoor display. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-108. Sign, accessory.

A sign which directs attention to a business, product, activity, or service conducted, sold, or offered for sale on the lot or tract of land where the sign is located. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-109. Sign, attached.

A sign mounted flat against a wall or side of a building or structure. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-110. Sign, detached.

A freestanding sign, and includes such signs whether standing upon the ground or upon a building or structure, and whether permanently fixed or movable, but does not include mobile signs. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-111. Sign, mobile.

A movable or portable sign that is so constructed as to be towable on its own chassis and to function without a permanent base or support. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-112. Sign, extending.

A sign mounted perpendicularly to the wall of a building. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-113. Sign, political.

A sign, advertising structure, or display which communicates any message or idea identifying, supporting, opposing, promoting, conveying a position upon, or relating to any candidate for public office or proposition, amendment or issue connected with any local, special, state or national election. The term does not include political buttons, vehicle bumper stickers, signs on garments or hats, or political campaign memorabilia carried on the person. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-113.1. Sign; Temporary Detached.

A temporary detached sign is a detached sign which meets one or more of the following criteria:

1. Relates a message that changes frequently or becomes outdated; or
2. Made of materials of relatively low durability; or
3. Intended to be removed or replaced within a period of six months or less; or
4. Is portable. (Ord. 4187, 2016; Ord. 4208, 2017)

25-2-114. Solid Waste Transfer Station.

A building in which solid waste is deposited and sorted for recycling or disposal, and from which it is transported within ten days after initial deposit, to a recycling center or to a landfill site licensed by the State of Nebraska. The term “solid waste” means solid waste as defined in Chapter 19, however, that anything which is a hazardous waste shall not be considered a “solid waste” which is allowed to be deposited and sorted in a solid waste transfer station. The term “hazardous waste” means hazardous waste as defined in Chapter 19. The term “hazardous waste” shall also include any substance which is defined as a hazardous waste by the Rules and Regulations of the Nebraska Department of Environmental Control as such rules and regulations are or may become effective from time to time. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-115. Specified anatomical areas.

The term “specified anatomical areas” means:

- a) less than completely and opaquely covered human genitals, pubic region, buttocks or female breasts below a point immediately above the top of the areola or
- b) human male genitals in a discernibly turgid state, even if completely and opaquely covered. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-116. Specified sexual activities.

Specified sexual activities means:

- a) human genitals in a state of sexual stimulation or arousal;
- b) acts of human masturbation, sexual intercourse or sodomy; or,

c) fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-117. Store.

To place or leave in a location for preservation or later use or disposal. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-118. Story.

That part of a building, not including a basement:

- (1) between the surface of any floor and the surface of the next floor above it, or
- (2) if there is no floor above, then the space between any floor and the ceiling next above it. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-119. Story, half.

A story directly under a gable, hip, or gambrel roof whose wall plates on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of that story. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-120. Street.

A public way, road, or highway, furnishing the principal means of access to an abutting lot or tract of land. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-121. Street, front.

A street on which the majority of the lots in the block front. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-122. Street, side.

A street which intersects a front street. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-123. Structure.

Anything constructed or erected on the ground, or attached to something constructed or erected on the ground. The term includes manufactured homes, signs, billboards and fences so constructed, erected or attached. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-124. Structural alteration.

A change in any supporting members, such as bearing wall, column, beam, or girder of any structure. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-125. Subdivision.

The dividing of any parcel of land into two (2) or more parcels. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-125.1. Tattooing.

Tattooing means the process by which the skin is marked or colored by insertion of non-toxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being

so as to form indelible marks for decorative or figurative purposes. (Ord. 4187, 2016; Ord. 4208, 2017)

25-2-125.2. Tattoo/body piercing establishment.

Any establishment where tattooing, branding and/or body piercing is engaged in and where the business of tattooing, branding, and/or body piercing is conducted, or any part thereof. This definition does not include practices that are considered medical procedures such as implants under the skin. Practices recognized as medical procedures by the State Medical Board shall not be performed in a tattoo/body piercing establishment. All tattoo/body piercing establishments must obtain appropriate licensure through the Nebraska Department of Health and Human Services for body art facilities. (Ord. 4187, 2016; Ord. 4208, 2017)

25-2-126. Temporary.

Less than twelve (12) months. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-127. Townhouse.

An arrangement of single family dwelling units, joined by common walls on not more than two (2) sides, with the uppermost story being a portion of the same dwelling located directly beneath at the grade of the first floor area, and having exclusive individual ownership and occupancy rights of each dwelling unit, including, but not limited to the land area directly beneath such dwelling unit. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-128. Travel trailer.

A portable vehicular structure built on a chassis which is designed to be used as a temporary dwelling while traveling, the body of which is not more than eight (8) feet wide nor thirty-two (32) feet long, and which usually contains bath or toilet facilities, or both. The term includes a camper. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-129. Trailer park.

A tract of land which is not a mobile home park but contains individual parking lots for travel trailers. It may have temporary hookup facilities for plumbing and electrical services. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-130. Unit.

The element of a planned unit development which is not owned in common with the owners of other elements in the development. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-131. Use, Accessory.

A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-132. Use, Conditional

A use classified as conditional may be appropriate or desirable in a specified zone, but requires special approval because if not carefully located or designed, it may create special problems such as excessive bulk, height or abnormal traffic conditions. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-133. Use, Non-conforming

Use of land, buildings or structures legally existing at the effective date of this ordinance which does not comply with all regulations of this ordinance or any amendments hereto governing the zoning district in which such use is located. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-134. Use, Permitted.

A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of particular zoning district. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-135. Use, Principal.

The primary use of land or buildings as distinguished from accessory uses. A principal use may be either permitted or conditional. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-136. Used car lot.

A lot or tract of land where second-hand automobiles, intact and ready for operation, are kept and offered for sale. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-137. Variance.

An authorization granted by the Board of Adjustment with respect to a lot, tract of land, building or structure so as to permit the use of a lot or tract of land, or the construction, reconstruction, maintenance, repair or use of a building or structure, which is otherwise prohibited by this Chapter, because of peculiar and exceptional practical difficulties, or an exceptional and undue hardship of a type recognized by section 19-910 R.R.S. 1943, as amended, as grounds for the granting of a variance. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-138. Yard.

An open space, other than a court, on a lot or tract of land generally unobstructed except as permitted in this Chapter from the ground upward. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-139. Yard, front.

A yard extending the full width of a lot or tract of land between the front wall of the main building and the front lot line. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-140. Yard, rear.

A yard extending the full width of a lot, or tract of land, between the rear of the main building and the rear lot line. The depth of a required rear yard is measured from the nearest point of the rear lot line to the nearest point of the main building. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-141. Yard, side.

A yard between a side wall of the main building and the side lot line extending from the front yard to the rear yard. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-142. Zoning district.

An area delineated on a zoning map for which uniform use regulations are specified. (Ord. 3639, 2000; Ord. 4187, 2016; Ord. 4208, 2017)

25-2-143. Zoning map.

A map or maps directly enacted by the City Council as a part of this Chapter showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the City Clerk as an Director record of the City, and a copy of which is attached to a copy of the text of this Chapter. (Ord. 3639, 2000; 2016; Ord. 4208, 2017)

ARTICLE 3

ZONING DISTRICT PROVISIONS

Section

<u>25-3-1</u>	<u>Establishment of Districts.</u>
<u>25-3-2</u>	<u>R-1 Single Family.</u>
<u>25-3-3</u>	<u>R-1a Single Family.</u>
<u>25-3-4</u>	<u>R-1b Rural Residential Estate Zone.</u>
<u>25-3-5</u>	<u>Repealed.</u>
<u>25-3-6</u>	<u>Repealed.</u>
<u>25-3-7</u>	<u>R-4 Heavy Density Multiple Family.</u>
<u>25-3-8</u>	<u>Repealed.</u>
<u>25-3-9</u>	<u>R-6 Mobile Home.</u>
<u>25-3-10</u>	<u>Repealed</u>
<u>25-3-11</u>	<u>O-P Office and Professional.</u>
<u>25-3-12</u>	<u>PBC Planned Business Center.</u>
<u>25-3-13</u>	<u>C-1 Central Business District.</u>
<u>25-3-14</u>	<u>C-2 Neighborhood Commercial.</u>
<u>25-3-15</u>	<u>C-3 Heavy Commercial.</u>
<u>25-3-16</u>	<u>M-1 Light Manufacturing and Industrial.</u>
<u>25-3-18</u>	<u>M-2 heavy Manufacturing and Industrial.</u>
<u>25-3-19</u>	<u>A Agricultural.</u>
<u>25-3-20</u>	<u>AR Agricultural Residential.</u>
<u>25-3-22</u>	<u>F Flood Plain.</u>
<u>25-3-22.1</u>	<u>GG-O Gateway Green Overlay.</u>
<u>25-3-23</u>	<u>General requirements.</u>
<u>25-3-25</u>	<u>Miscellaneous regulations.</u>

25-3-1. Establishment of districts.

In order to carry out the purpose and intent of this Ordinance, the City of Scottsbluff and its land outside the city limits over which the City exercises zoning jurisdiction is hereby divided into the following zoning district classifications:

- R-1 Single Family.
- R-1a Single Family.
- R-1b Rural Residential Estate Zone.
- R-4 Heavy Density Multiple Family.
- R-6 Mobile Home.
- O-P Office and Professional.
- PBC Planned Business Center.
- C-1 Central Business District.
- C-2 Neighborhood Commercial.
- C-3 Heavy Commercial.
- M-1 Light Manufacturing and Industrial.
- M-2 Heavy Manufacturing and Industrial.

A Agricultural.
AR Agricultural Residential.
F Flood Plain.
GG-O Gateway Green Overlay.

25-3-2. R-1 Single Family.

Intent: The intent of the R-1 Single Family Zone is to:

1. Provide for low density residential areas where the predominant uses are single family detached houses.
2. Protect these areas from incompatible uses.

Principle Permitted Uses.

1. Church
2. Colleges
3. Community Center
4. Family child care home
5. Fire station
6. Home Occupations in accordance with Article 8
7. Municipal Uses
8. Parks (public) including campgrounds
9. Public utility lines & substations
10. Rooming/boarding house with no more than two (2) guests
11. Single family detached dwelling units
12. School
13. Water wells

Special Permit Uses.

1. Cemeteries
2. Cluster housing
3. College dormitories
4. Condominium
5. Hospital
6. Library
7. Public utility facilities
8. Temporary building or contractor's storage and construction yard, incidental to the construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements for the zone in which it is located.
9. Townhouses (single family attached) dwelling units
10. Two-family dwellings
11. Utility plants
12. Water storage

Performance Standards.

1. Area & bulk regulations.

Use	Minimum Lot Size (sq.ft.)	Minimum Lot Width (ft.)	Maximum Coverage (%)	Maximum # Dwelling Units	Front (ft.)	Setbacks Rear (ft.)	Interior Side (ft.)	Side Street (ft.)	Floor Area Min (sq.ft.)	Height (ft.)
Single Family	12,000	100	40	1	A	20	5	15	1200	35
Accessory Building						3	2	15	900	1 story
Garage						3	2	15	900	18

- A. If buildings have been built on lots which comprise more than twenty-five (25) percent of the front footage of any block, no building or structure may be built or structurally altered which projects beyond the average front yard setback already established.

If the only building is one on an adjoining lot, the minimum front yard setback shall be the greater of twenty-five (25) feet or the setback of such building. If buildings have been built on lots which comprise twenty-five (25) or less percent of the front footage of any block, the minimum front yard setback shall be twenty-five (25) feet.

No front yard setback shall exceed fifty (50) feet.

2. Accessory building; detached

- A. A detached accessory building must be located:

- (1) to the rear of the main building,
- (2) at least ten (10) feet from the main building, or a distance of at least five (5) feet from the main dwelling building if the interior wall of the accessory building adjacent to the main building complies with the International 1&2 Family Dwelling Section 309.2, which has been adopted by this Municipal Code, provided a detached accessory building constructed prior to June 26, 1974, to the rear of and at a distance not less than five (5) feet from the main building shall not be deemed to be in violation of this requirement;
- (3) at least three (3) feet from the rear lot line if the lot line is a common lot line abutting a lot, and the entry point from alley shall be no closer than five (5) feet from the property line; and
- (4) at least two (2) feet from the interior side lot line; provided, this requirement shall not apply where the interior side lot lines is over which the main building extends. If the lot abuts a side street, an accessory building must comply with the setback requirements applicable to the lot or tract of land upon which the main building is located. Setbacks shall be measured from the nearest eve of the building or buildings.

- B. An existing reversed corner lot, a detached accessory building or garage may project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street the garage must be set back from the side street property line a distance of not less than twenty (20) feet. (Ord. 3985, 2009)

- C. A detached garage may be located in the side yard if the following requirements are met:

- (1) The garage must meet the performance guidelines in the residential zone.
- (2) The garage must observe the same front yard setbacks required for the main structure.
- (3) Garages shall not be placed over easements.
- (4) Lot coverage will meet requirements in the zoning district.

25-3-3. R-1a Single Family.

Intent: The intent of the R-1a Single Family Zone is to:

1. Provide for medium and low density residential areas where the predominant uses are single family detached and single family semi-attached dwelling units.
2. Protect these areas from incompatible uses.

Principle Permitted Uses.

1. Church
2. Community Center
3. Family child care home
4. Home occupations
5. Multi-family units
6. Municipal Uses
7. Rooming/boarding house with no more than two (2) guests
8. School
9. Single family detached dwelling units
10. Golf courses
11. Parks
12. Fire stations
13. Public utilities and substations
14. Two family dwellings
15. Water wells

Special Permit Uses.

1. Cluster housing
2. Condominium
3. Funeral home
4. Hair salons
5. Hospital
6. Library
7. Lodge or club
8. Nursery school or day care center
9. Permanent cosmetic facility
10. Public utility facilities
11. Retirement facilities
12. Rooming or boarding house for not more than six (6) roomers or boarders.
13. Temporary building or contractor's storage and construction yard, incidental to the construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements for the zone in which it is located.
14. Tourist information booths
15. Townhouses (single family attached) dwelling units
16. Utility plants
17. Water storage

18. Retirement facilities

Performance Standards.

1. Area & bulk regulations.

Use	Minimum Lot Size (sq.ft.)	Minimum Lot Width (ft.)	Maximum Coverage (%)	Maximum # Dwelling Units	Front (ft.)	Setbacks Rear (ft.)	Interior Side (ft.)	Side Street (ft.)	Floor Area Min (sq.ft.)	Height (ft.)
Single Family	5,500	55	60	1	A	B	5	C	700	35
Two Family	7,000	70	50	2	25	15	5	12.5	600/DU	35
Multi Family	7,000	70	50		25	25	5	12.5	400/DU	35
(Minimum 2500 sq. ft. per dwelling unit)										
Accessory Building						3	2	C	900	1 story
Garage						3	2	C	900	18

- A. Minimum front yard setback to front facing garage shall be twenty (20) feet; to front of dwelling face shall be twelve (12) feet; to front of porch shall be seven (7) feet. If buildings have been built on lots which comprise more than twenty-five (25) percent of the front footage of any block, no building or structure may be built or structurally altered which projects beyond the average front yard setback already established.

If the only building is one on an adjoining lot, the minimum front yard setback shall be the greater of twenty (20) feet or the setback of such building. If buildings have been built on lots which comprise twenty-five (25) or less percent of the front footage of any block, the minimum front yard setback shall be twenty (20) feet.

No front yard setback shall exceed fifty (50) feet.

- B. Minimum rear yard setback to the dwelling shall be fifteen (15) feet. Minimum rear yard setback to a deck shall be ten (10) feet.
- C. Minimum side yard setback from a side street shall be twelve and one-half (12.5) feet. Minimum side yard setback from a side street for a side-loading garage shall be twenty (20) feet.

2. Accessory building; detached

- A. A detached accessory building must be located:
- (1) to the rear of the main building,
 - (2) at least ten (10) feet from the main building, or a distance of at least five (5) feet from the main dwelling building if the interior wall of the accessory building adjacent to the main building complies with the international 1&2 Family Dwelling Code Section 309.2, which has been adopted by this Municipal Code, provided a detached accessory building constructed prior to June 26, 1974, to the rear of and at a distance not less than five (5) feet from the main building shall not be deemed to be in violation of this requirement;
 - (3) at least three (3) feet from the rear lot line if the lot line is a common lot line abutting a lot;
 - (4) at least two (2) feet from the interior side lot line; provided, this requirement shall not apply where the interior side lot lines is over which the main building extends. If the lot abuts a side street, an accessory building must comply with the setback requirements applicable to the lot or tract of land upon which the main building is located. Setbacks shall be measured from the nearest eve of the

building or buildings.

- (5) Minimum rear yard setback to a garage with an alley entrance shall be five (5) feet.
- B. On an existing reversed corner lot, a detached accessory building or garage may project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street the garage must be set back from the side street property line a distance of not less than twenty (20) feet.
- C. A detached garage may be located in the side yard if the following requirements are met:
 - (1) The garage must meet the performance guidelines in the residential zone.
 - (2) The garage must observe the same front yard setbacks required for the main structure.
 - (3) Garages shall not be placed over easements.
 - (4) Lot coverage will meet requirements in the zoning district.

(Ord. 4192, 2016)

25-3-4. R-1b Rural Residential Estate Zone.

Intent: The intent of an R-1b rural residential estate district is to:

- 1. Provide for low density residential areas with larger lot sizes where the predominant uses are single family detached dwellings.
- 2. Protect these areas from incompatible uses.

Principle Permitted Uses.

- 1. Church
- 2. Community Center
- 3. Crop production and orchards
- 4. Family child care home
- 5. Home occupations
- 6. Irrigation facilities that are incidental to ag use on premises
- 7. Municipal Uses
- 8. Rooming/boarding house with no more than two (2) guests
- 9. School
- 10. Single family detached dwelling units

Special Permit Uses.

- 1. Hospital
- 2. Library
- 3. Livestock-Horses and other livestock used solely for non-business recreation of occupier are permissible in the quantity of one (1) animal per lot or, if a lot comprises one (1) acre or more, one (1) animal per each whole acre. Shelters for such animals shall be situated not less than fifty (50) feet from the property line and not less than fifty (50) feet from a residence on another lot or tract.
- 4. Nursery school or day care center.
- 5. Public utility facilities

6. Rooming/boarding house with no more than six guests
7. Temporary building or contractor's storage and construction yard, incidental to the construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements for the zone in which it is located.
8. Tourist information booth
9. Utility plants
10. Water storage

Performance Standards.

1. Area & bulk regulations.

Use	Minimum Lot Size (sq.ft.)	Minimum Lot Width (ft.)	Maximum Coverage (%)	Maximum # Dwelling Units	Setbacks			Side Street (ft.)	Floor Area Min. (sq.ft.)	Height (ft.)
					Front (ft.)	Rear (ft.)	Interior Side (ft.)			
Single Family	3 acres	200	30	1	50	50	20	15	900	35'
Accessory Building						3	2	15	900	1 story
Garage						3	2	15	900	25'

2. Accessory building; detached

- A. A detached accessory building must be located:
 - (1) to the rear of the main building,
 - (2) at least ten (10) feet from the main building, or a distance of at least five (5) feet from the main dwelling building if the interior wall of the accessory building adjacent to the main building complies with the international 1&2 Family Dwelling Code Section 309.2, which has been adopted by this Municipal Code, provided a detached accessory building constructed prior to June 26, 1974, to the rear of and at a distance not less than five (5) feet from the main building shall not be deemed to be in violation of this requirement;
 - (3) at least three (3) feet from the rear lot line if the lot line is a common lot line abutting a lot;
 - (4) at least two (2) feet from the interior side lot line; provided, this requirement shall not apply where the interior side lot lines is over which the main building extends. If the lot abuts a side street, an accessory building must comply with the setback requirements applicable to the lot or tract of land upon which the main building is located. Setbacks shall be measured from the nearest eve of the building or buildings; and
 - (5) Minimum rear yard setback to a garage with an alley entrance shall be five (5) feet.
- B. On an existing reversed corner lot, a detached accessory building or garage may project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street the garage must be set back from the side street property line a distance of not less than twenty (20) feet.
- C. A detached garage may be located in the side yard if the following requirements are met:
 - (1) The garage must meet the performance guidelines in the residential zone.

- (2) The garage must observe the same front yard setbacks required for the main structure.
- (3) Garages shall not be placed over easements.
- (4) Lot coverage will meet requirements in the zoning district.

(Ord. 4137, 2014)

25-3-7. R-4 Heavy Density Multiple Family.

Intent: The intent of an R-4 heavy density multiple family zone is to:

1. Provide for a variety of carefully designed housing types at high densities.
2. Provide for a mix of other uses consistent with the needs of the residential occupants.
3. Encourage the development of affordable housing for young families, low and moderate income families and the elderly.

Principle Permitted Uses.

1. Church
2. Community Center
3. Educational/Charitable institutions.
4. Family child care home
5. Fraternities, sororities, dormitories.
6. Home occupations
7. Multi-family dwelling units
8. Municipal Uses
9. Rooming/boarding house with no more than two (2) guests
10. School
11. Single family detached dwelling units
12. Two family dwelling

Special Permit Uses.

1. Cluster housing, condominiums and townhouses provided all planned unit development standards are met pursuant to Article 7 and the density does not exceed the density level permitted in the zoning district in which the planned unit development is proposed to be located.
2. Crop production & orchards
3. Hospital
4. Irrigation facilities that are incidental to agricultural use of the premises.
5. Library
6. Lodge/club.
7. Nursery school or day care center.
8. Public utility facilities
9. Rooming or boarding house for not more than six (6) roomers or boarders.
10. Temporary building or contractor's storage and construction yard, incidental to the construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements for the zone in which it is located.
11. Tourist information booth
12. Utility plants

13. Water storage

Performance Standards.

1. Area & bulk regulations.

Use	Minimum Lot Size (sq.ft.)	Minimum Lot Width (ft.)	Maximum Coverage (%)	Maximum # Dwelling Units	Front (ft.)	Setbacks Rear (ft.)	Interior (ft.)	Side (ft.)	Side Street	Floor Area (sq.ft.)	Maximum Height (ft.)
Single Family	7,000	70	50	1	25	25	5	12.5			35
Two Family	7,000	70	50	2	25	25	5	12.5	600/DU		35
LD Multi Family	7,000	70	50		25	25	5	12.5	400/DU		35
HD Multi Family	7,000	70	A		25	25	B	B	A		70
Accessory Building							3	2	12.5	900	1 story
Building											
Garage (MF)							3	2	12.5	300/DU	1 story
											18
Garage (SF)							3	2	12.5	900	1 story
											18

- A. Minimum floor area per dwelling unit and maximum lot coverage:

Minimum Floor Area

500 sq. ft.

450 sq. ft.

400 sq. ft.

350 sq. ft.

300 sq. ft.

Maximum Lot Coverage

70% lot coverage

76% lot coverage

60% lot coverage

55% lot coverage

45% lot coverage

- B. The minimum side yard setback is five (5) feet for buildings and structures not more than three stories high. For buildings more than three (3) stories high, the required minimum side yard setback is increased one foot for each additional story over three (3). Provided, in the case of a residential building extending across a common interior lot line of abutting lots which are in common ownership, the above minimum side yard setback requirements do not apply to such lot line, but there shall be a minimum side yard setback of (1) five (5) feet from the lot line on the opposite side of each of the lots in zones R-1, R-1a, R-1b, and (2) ten (10) feet from the lot line on the opposite side of each of the lots in zones R-4 and OP.
- C. If buildings have been built on lots which comprise more than twenty-five (25) percent of the front footage of any block, no building or structure may be built or structurally altered which projects beyond the average front yard setback already established.

If the only building is one on an adjoining lot, the minimum front yard setback shall be the greater of twenty (20) feet or the setback of such building. If buildings have been built on lots which comprise twenty-five (25) or less percent of the front footage of any block, the minimum front yard setback shall be twenty (20) feet.

No front yard setback shall exceed fifty (50) feet.

2. Accessory building/garage; detached

- A. A detached accessory building must be located:

(1) to the rear of the main building,

(2) at least ten (10) feet from the main building, or a distance of at least five (5) feet from the main dwelling building if the interior wall of the accessory building adjacent to the main building complies with the International 1&2 Family Dwelling Code Section 309.2, which has been adopted by this

- Municipal Code, provided a detached accessory building constructed prior to June 26, 1974, to the rear of and at a distance not less than five (5) feet from the main building shall not be deemed to be in violation of this requirement;
- (3) at least three (3) feet from the rear lot line if the lot line is a common lot line abutting a lot;
 - (4) at least two (2) feet from the interior side lot line; provided, this requirement shall not apply where the interior side lot lines is over which the main building extends. If the lot abuts a side street, an accessory building must comply with the setback requirements applicable to the lot or tract of land upon which the main building is located. Setbacks shall be measured from the nearest eve of the building or buildings.
 - (5) Minimum rear yard setback to a garage with an alley entrance shall be five feet (5').
- B. The setback from a side street line must be at least five (5) feet. Provided, further, a garage with access from a side street must be set back from the right-of-way line of such street a distance of at least twenty (20) feet. The setbacks herein referred to shall be measured from the nearest wall of the garage, except the setback from the side street line, which shall be measured from the nearest eave. (Ord. 3985, 2009; Ord. 4137, 2014)

25-3-9. R-6 Mobile Home.

Intent: The intent of an R-6 mobile home district is to:

1. Allow mobile homes outside a mobile home park.
2. Allow the mix of single family detached dwellings.
3. Require greater lot sizes than mobile home parks.
4. Allow a mix of uses other than residential uses which are compatible with the district.

Principle Permitted Uses.

1. Church
2. Community Center
3. Family child care home
4. Home occupation
5. Mobile homes
6. Municipal Uses
7. Rooming/Boarding house (not more than 2 quests)
8. School
9. Single family detached dwelling

Special Permit Uses.

1. Cluster housing, condominiums and townhouses provided all planned unit development standards are met pursuant to Article 7 and the density does not exceed the density level permitted in the zoning district in which the planned unit development is proposed to be located.
2. Mobile home parks with the following performance standards.
3. Nursery school or day care center.
4. Temporary building or contractor's storage and construction yard, incidental to the

construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements for the zone in which it is located.

Performance Standards.

1. Area & bulk regulations.

Use	Minimum Lot Size (sq.ft.)	Minimum Lot Width (ft.)	Maximum Coverage (%)	Maximum # Dwelling Units	Front (ft.)	Setbacks Rear (ft.)	Interior Side (ft.)	Side Street (ft.)	Floor Area Min (sq.ft.)	Height (ft.)
Mobile Home	16,640	70	40	1	20	25	12	12.5	700	35
Single Family	16,640	70	40	1	20	25	12	12.5		35
Accessory Building					3	2				1 story
Garage						3	2	15	700	18
* Mobile Home Parks	4.5 acres			7 per gross acre	15	20	10 between units	12.5	320	35

Mobile homes shall not be closer than 18 feet from any service or any other mobile home park permanent building.
Mobile homes must meet HUD standards.

- A. If buildings have been built on lots which comprise more than twenty-five (25) percent of the front footage of any block, no building or structure may be built or structurally altered which projects beyond the average front yard setback already established.

If the only building is one on an adjoining lot, the minimum front yard setback shall be the greater of twenty (20) feet or the setback of such building. If buildings have been built on lots which comprise twenty-five (25) or less percent of the front footage of any block, the minimum front yard setback shall be twenty (20) feet.

No front yard setback shall exceed fifty (50) feet.

- B. Mobile homes shall set back a minimum of twenty (20) feet from the property line of the mobile home park. A front setback of mobile homes shall be a minimum of fifteen (15) feet from the curb on interior drives, and the side setback shall be a minimum of ten (10) feet between mobile homes. No mobile home shall be situated closer than eighteen (18) feet to any service or other mobile home park permanent building.
- C. The density of a mobile home park shall not exceed seven (7) dwelling units per gross acre.

2. Accessory building; detached

- A. A detached accessory building must be located:
- (1) to the rear of the main building,
 - (2) at least ten (10) feet from the main building, or a distance of at least five (5) feet from the main dwelling building if the interior wall of the accessory building adjacent to the main building complies with the International 1&2 Family Dwelling Code Section 309.2, which has been adopted by this Municipal Code, provided a detached accessory building constructed prior to June 26, 1974, to the rear of and at a distance not less than five (5) feet from the main building shall not be deemed to be in violation of this requirement;
 - (3) at least three (3) feet from the rear lot line if the lot line is a common lot line abutting a lot;
 - (4) at least two (2) feet from the interior side lot line; provided, this requirement shall not apply where the interior side lot lines is over which the main building

extends. If the lot abuts a side street, an accessory building must comply with the setback requirements applicable to the lot or tract of land upon which the main building is located. Setbacks shall be measured from the nearest eve of the building or buildings; and

- (5) Minimum rear yard setback to a garage with an alley entrance shall be five (5) feet.
- B. On an existing reversed corner lot, a detached accessory building or garage may project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street the garage must be set back from the side street property line a distance of not less than twenty (20) feet.
- C. A detached garage may be located in the side yard if the following requirements are met:
 - (1) The garage must meet the performance guidelines in the residential zone.
 - (2) The garage must observe the same front yard setbacks required for the main structure.
 - (3) Garages shall not be placed over easements.
 - (4) Lot coverage will meet requirements in the zoning district. (Ord. 4072, 2012)

25-3-11. O-P Office and Professional.

Intent: The intent of an O-P office and professional zone is to:

- 1. Allow for a mixture of professional office and some residential occupancies with limited other compatible commercial uses.

Principle Permitted Uses.

- 1. Accounting, auditing, bookkeeping services
- 2. Arts & crafts studio
- 3. Bank automated teller facilities, indoor
- 4. Bank & Saving & Loan
- 5. Barber/Beauty shop
- 6. Church
- 7. Clinic
- 8. Communication facilities including communication tower, such tower not to exceed one hundred fifty (150) feet in height. No guy wires, outrigging, or other supporting structures may extend beyond the foundation of the tower.
- 9. Community Center
- 10. Educational or charitable institutions & educational or scientific research services
- 11. Florist
- 12. Gift shop
- 13. Home Occupations
- 14. Hospital
- 15. Insurance agency/services
- 16. Laboratory, medical, dental, optical

17. Library
18. Marriage and family counseling
19. Mortuary
20. Multi-family dwellings. Whenever a lot or tract of land is used in whole or part for residential purposes, preliminary and final site plans of a proposed development must be submitted to the Planning Commission for review and approval.
21. Municipal Uses
22. Offices, professional services
- 22.1 Permanent cosmetic facility
23. Pharmacy
24. Professional membership organizations
25. Professional schools
26. Rooming/boarding house
27. School
28. Single family dwelling. Whenever a lot or tract of land is used in whole or part for residential purposes, preliminary and final site plans of a proposed development must be submitted to the Planning Commission for review and approval.
29. Tourist information booth
30. Two family dwelling

Special Permit Uses.

1. Ambulance service
2. Animal clinic (indoor only): Residential use is permitted above the ground floor and within the confines of a business building. The entire business must be conducted within a building. Preliminary and final site plans must be submitted to the Planning Commission for review and approval.
3. Bank automated teller facilities, outdoor: (See “a” below)
4. Book & stationery store
5. Day care center (child care center) or preschool: (See “a” below)
6. Delicatessen
7. Health food store
8. Restaurant
9. Temporary building or contractor’s storage and construction yard, incidental to the construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements for the zone in which it is located.
10. Temporary medical housing
11. Public utility facilities
12. Lodge or club
13. Utility plants
14. Water storage
 - a. Residential use is permitted only within the confines of a building in which a permitted use is conducted. Preliminary and final site plans must be submitted to the Planning Commission for review and approval

Performance Standards.

1. Area & bulk regulations.

Use	Minimum Lot Size (sq.ft.)	Minimum Lot Width (ft.)	Maximum Coverage (%)	Maximum # Dwelling Units	Setbacks			Side Street	Floor	Maximum
					Front (ft.)	Rear (ft.)	Interior Side (ft.)	Area (ft.)	Area (sq.ft.)	Height (ft.)
	7,000	-	C	C	25 or D	A	B	12.5	C	70

- A. If a lot abuts on a public alley, the minimum rear yard setback is five feet; otherwise, the minimum rear yard setback is fifteen (15) feet.
 - B. The minimum side yard setback is five (5) feet for buildings and structures not more than three stories high. For buildings more than three (3) stories high, the required minimum side yard setback is increased one foot for each additional story over three (3). Provided, in the case of a residential building extending across a common interior lot line of abutting lots which are in common ownership, the above minimum side yard setback requirements do not apply to such lot line, but there shall be a minimum side yard setback of (1) five (5) feet from the lot line on the opposite side of each of the lots in zones R-1, R-1a, R-1b, and (2) ten (10) feet from the lot line on the opposite side of each of the lots in zones R-4 and OP.
 - C. Minimum floor area per dwelling unit and the maximum lot coverage is as follows:

Floor Area	Lot Coverage
500 sq. ft.	70% lot coverage
450 sq. ft.	76% lot coverage
400 sq. ft.	60% lot coverage
350 sq. ft.	55% lot coverage
300 sq. ft.	45% lot coverage
 - D. The required minimum R Zone setback applies if the frontage between two (2) streets separates an R Zone and either a C Zone, M Zone or OP Zone. If all frontage between two (2) streets is in either a C or M Zone, no front setback is required.
2. Accessory building/garage; detached
- A. A detached accessory building must be located at least ten (10) feet from the main building.
 - B. On an existing reversed corner lot, a detached accessory building or garage may project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street the garage must be set back from the side street property line a distance of not less than twenty (20) feet. (Ord. 4072, 2012; Ord. 4192)

25-3-12. PBC Planned Business Center.

Intent: The intent of a planned business center zone is to:

1. Provide an area for a unified commercial center which provides goods and services to a regional trading area.
2. Provide for joint or grouped parking facilities serving several retail stores.
3. Coordinate a vehicular and pedestrian traffic circulation system and carefully design access that is compatible with surrounding uses.

Principle Permitted Uses.

1. Accounting, auditing, bookkeeping services
2. Ambulance service
3. Amusement centers, indoor only

4. Animal clinic, indoor only
5. Arts & crafts studio
6. Automated or coin-operated car wash
7. Bakery or bakery goods store
8. Bank automated teller facilities, outdoor
9. Bank automated teller facilities, indoor
10. Bank & savings & loan
11. Barber, beauty shop
12. Book & stationary store
13. Business college, trade school
14. Church
15. Cleaning, laundry agency
16. Clinic
17. Communication facilities including communication tower, such tower not to exceed one hundred fifty (150) feet in height. No guy wires, outrigging, or other supporting structures may extend beyond the foundation of the tower.
18. Community center (public)
19. Confectionery stores
20. Convenience stores w/o dispensing gasoline
21. Convenience stores with dispensing gasoline
22. Dance, music or voice studio
23. Day care center (child care center) or preschool
24. Delicatessen
25. Drive-thru photo facility
26. Drive-thru (fast food) restaurant
27. Educational and scientific research service
28. Florist
29. Food store, delicatessen
30. Furniture/appliance store
31. Gift shop
32. Grocery store
33. Hardware store
34. Hospital
35. Insurance agency/services
36. Jewelry store
37. Laboratory, medical, dental, optical
38. Laundromat, self-service
39. Library
40. Marriage and family counseling
41. Mortuary
42. Multi-family dwelling units. Living quarters for watchman of commercial or industrial use property, or for hotels and motels, are the only permitted residential uses in this zone.
43. Municipal Uses
44. Offices, professional and service
- 44.1 Permanent cosmetic facility

45. Pharmacy
46. Photographic studio
47. Printing & blueprinting
48. Professional membership organizations
49. Professional schools
50. Reducing/Suntanning
51. Restaurant, bar, tavern
52. Retail stores and services
53. Service station-full service
54. Service station-mixed use
55. Single family dwelling units. Living quarters for watchman of commercial or industrial use property, or for hotels and motels, are the only permitted residential uses in this zone.
56. Shoe store
57. Theater, indoor
58. Tire shop, recapping
59. Utility business offices

Special Permit Uses.

1. Adult book store. No such use shall be located within three hundred (300) linear feet of any school, public or private, place of worship, public park, day care center, child nursery, library, or residential district. No such use shall be located within 1,000 linear feet of any existing adult book store. No such use may be allowed in combination with the sale or consumption of alcoholic beverages.
2. Lodge or club
3. Public Utility facilities
4. Temporary building or contractor's storage and construction yard, incidental to the construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements for the zone in which it is located.
5. Temporary building may be permitted if such building complies with all height and area requirements, and the use complies, except for the fact that the building is a temporary one.
6. Utility Plants
7. Water storage

Performance Standards.

1. Area & bulk regulations.

Use	Minimum Lot Size (sq.ft.)	Minimum Lot Width (ft.)	Maximum Coverage (%)	Maximum # Dwelling Units	Front (ft.)	Setbacks Rear (ft.)	Interior Side (ft.)	Side Street (ft.)	Floor Area (sq.ft.)	Maximum Height (ft.)
Accessory Building		See below		none						*
Garage							12.5			

* = Height requirement listed in #4 of Design Requirements: Buildings, structures; height.

2. Accessory building/garage; detached

- A. A detached accessory building must be located at least ten (10) feet from the main building
- B. On an existing reversed corner lot, a detached accessory building or garage may

project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street the garage must be set back from the side street property line a distance of not less than twenty (20) feet.

3. Accessory building, attached.

- A. A building which if detached from the main building would constitute an accessory building may be connected to the main building by a breezeway or similar structure, and in such event shall meet all requirements for the main building.

4. Design Requirements:

Buffer strips; R Zones.

A buffer strip, at least twenty-five (25) feet in width, sodded, and planted with shrubs or other greenery, and with a permanent screen at least ten (10) feet high, must be established and maintained adjacent to the boundary line of any abutting lot or tract of land located in whole or part in an R Zone.

Buildings, structures; height.

No building or structure, except for an elevator, penthouse water tower, or decorative building projection, may exceed three (3) stories or forty-five (45) feet in height, whichever is lower.

Dwellings.

No building in a center may be used as dwelling except for a paid custodian, caretaker, or watchman living in the center.

General design.

A center must be laid out and developed as a unit in accordance with an integrated or coordinated overall design that complies with the provisions of this Article. Buildings, structures, parking areas, walks, lighting, and appurtenant facilities must be located and arranged with due regard for surrounding land uses. Any part of a center not used for buildings, structures, access ways, parking and loading or unloading areas must be landscaped with grass, trees, shrubs, or pedestrian walks.

Loading facilities.

A center must provide adequate areas for motor vehicles to load or unload merchandise, materials, or equipment without interfering with the use of any public street or alley.

Location.

A center may be located only in a PBC Zone established in accordance with this Article, and only on a lot or tract of land abutting one (1) or more arterial streets.

Off-street parking.

Adequate off-street parking must be provided in a center to accommodate all motor vehicles of employees, customers, and other persons reasonably expected to use the center, and for vehicles used in the conduct of businesses in the center. At least one (1) parking space must be provided for each two hundred (200) square feet of floor area used for selling or offices. Areas designed primarily for loading and unloading or standing space are not parking spaces within the meaning of this section. Floor area designed for selling or office may not include areas used for storage, utilities or restrooms. Parking spaces and areas must meet the requirements of Chapter 25, Article 5.

Setbacks.

No building or structure may be constructed or maintained in a center within one hundred (100) feet of the boundary line of an abutting lot or tract of land located in an R Zone nor within twenty-five (25) feet of the right-of-way of a public street or road. No roadway or parking area in a center may be constructed or maintained within twenty-five (25) feet of the right-of-way line.

Storage; outdoor; restrictions.

Merchandise, materials or equipment may not be stored in an open area except for immediate sale or

temporary display not exceeding seven (7) days. (Ord. 4072, 2012; Ord. 4137, 2014; Ord. 4192, 2016)

25-3-13. C-1 Central Business District.

Intent: The intent of a C-1 Central Business District Zone is a zone for the central business district permitting all types of business enterprises except manufacturing and other industries which are incompatible with a business district comprised primarily of retail sales and service businesses.

Principle Permitted Uses.

1. Accounting, auditing, bookkeeping services
2. Ambulance service
3. Amusement centers, indoor only
4. Animal clinic, indoor only
5. Arts & crafts studio
6. Auto storage and rental
7. Bakery or bakery goods store. The maximum gross floor area of a building permitted for this use is six thousand four hundred (6,400) square feet. Incidental, non-nuisance-producing processing, packaging, or fabricating is permitted if conducted entirely within a building.
8. Bank automated teller facilities, outdoor
9. Bank automated teller facilities, indoor
10. Bank & savings & loan
11. Barber, beauty shop
12. Book & stationary store
- 12.1 Brew Pub
13. Bus depot
14. Business college, trade school
15. Automated or coin-operated car wash
16. Church
17. Cleaning, laundry agency
18. Clinic
19. Communication facilities including communication tower, such tower not to exceed one hundred fifty (150) feet in height. No guy wires, outrigging, or other supporting structures may extend beyond the foundation of the tower.
20. Community center (public)
- 20.5 Condominium with 3 or fewer apartments
21. Confectionery stores
22. Convenience stores w/o dispensing gasoline
23. Convenience stores with dispensing gasoline
24. Convenience warehouse storage facilities
25. Day care center (child care center) or preschool
26. Delicatessen
27. Drive-thru photo facility
- 27.5 Dwelling unit--two (2) unit and multiple family within the confines of a building in which a business enterprise, retail sales or service business may be conducted.
28. Educational and charitable institutions
29. Educational and scientific research service

30. Florist
31. Food store, delicatessen
32. Furniture refinishing. The entire business must be conducted within a building.
33. Furniture/appliance store
34. Gift shop
35. Grocery store
36. Hardware store
37. Hospital
38. Hotel
39. Insurance agency/services
40. Jewelry store
41. Laboratory, medical, dental, optical
42. Laundromat, self-service
43. Library
44. Lodge or club
45. Marriage and family counseling
46. Mortuary
47. Motel
48. Municipal Uses
49. Nursery for children
50. Nursery for flowers/plants
51. Offices, professional and service
52. Parking lot, garage or facility
53. Pharmacy
54. Photographic studio
55. Printing & blueprinting
56. Professional membership organizations
57. Professional schools
58. Railroad station
59. Reducing/Suntanning
60. Restaurant, bar, tavern
61. Retail stores and services
62. Rooming/boarding house. Residential use is permitted above the ground floor and within the confines of a business building.
63. School
64. Service station-full service
65. Service station-mixed use
66. Service station -self service dispensing of gas only
67. Shoe store
- 67.1 Tattoo/body piercing establishment
68. Temporary medical housing
69. Theater, indoor
70. Tire shop, recapping
71. Tourist information booth
72. Upholstery Shops provided all work is completed inside the building.

73. Utility business offices
74. Warehousing facilities. Warehouse or storage facilities are permitted as the primary use on a lot or property only if a special permit is granted. A lot or property will not be eligible for consideration of the issuance of a special permit unless (1) the proposed facility will be located on a lot immediately adjoining (or directly across an alley from) a property with an allowed C-1 Zone use, (2) the proposed facility is necessary to and will be used as an accessory to the allowed use on the adjoining lot, and (3) both lots are under the same ownership.
75. Wholesale stores and distributors. The maximum gross floor area of a building permitted for this use is six thousand four hundred (6,400) square feet. Incidental, non-nuisance-producing processing, packaging, or fabricating is permitted if conducted entirely within a building.

Special Permit Uses.

1. Drive-thru (fast food) restaurant
2. Micro Brewery
3. Equipment rental and sales yard
4. Temporary building or contractor's storage and construction yard, incidental to the construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements for the zone in which it is located.
5. Temporary building may be permitted if such building complies with all height and area requirements, and the use complies, except for the fact that the building is a temporary one.

Performance Standards.

1. Area & bulk regulations.

Use	Minimum Lot Size (sq.ft.)	Minimum Lot Width (ft.)	Maximum Coverage (%)	Maximum # Dwelling Units	Setbacks					Floor Maximum	
	none	none	-		Front (ft.) C	Rear (ft.) A	Interior (ft.) B	Side (ft.) -	Side (ft.) 12.5	Area (sq.ft.) PRTFA	Height (ft.) 70
Garage							5				

Minimum Lot Area / Dwelling Unit - no requirement.
PRTFA = Parking Ratio to Floor Area

- A. No minimum rear yard setback is required except for a lot abutting the side of a lot in either an R or OP Zone, in which case the minimum rear yard setback is fifteen (15) feet. If a public alley separates such lots, no rear yard is required.
 - B. No minimum interior side yard setback is required except for a lot in a C or M Zone whose side abuts the side of a lot in either an R or OP Zone, in which latter case the minimum interior side yard setback is five (5) feet. If a public alley separates such lots, no side yard is required.
 - C. The required minimum R Zone setback applies if the frontage between two (2) streets separates an R Zone and a C Zone. If all frontage between two (2) streets is in a C Zone no front setback is required.
2. Accessory building/garage; detached
 - A. A detached accessory building must be located at least ten (10) feet from the main building.
 - B. On an existing reversed corner lot, a detached accessory building or garage may

project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street the garage must be set back from the side street property line a distance of not less than twenty (20) feet.

3. Accessory building, attached.

- A. A building which if detached from the main building would constitute an accessory building may be connected to the main building by a breezeway or similar structure, and in such event shall meet all requirements for the main building.

(Ord 3965, 2008; Ord. 3985, 2009; Ord. 4152, 2015; Ord. 4187, 2016; Ord. 4198, 2016)

25-3-14. C-2 Neighborhood and Retail Commercial.

Intent: The intent of a C-2 Neighborhood and Retail Commercial Zone is to provide a zone consisting of retail stores and service establishments

Principle Permitted Uses.

1. Accounting, auditing, bookkeeping services
2. Ambulance service
3. Amusement centers, indoor only
4. Animal clinic, indoor only
5. Arts & crafts studio
6. Automated or coin-operated car wash
7. Bakery or bakery goods store
8. Bank automated teller facilities, outdoor
9. Bank automated teller facilities, indoor
10. Bank & savings & loan
11. Barber, beauty shop
12. Book & stationary store
- 12.1 Brew Pub
13. Church
14. Cleaning, laundry agency
15. Clinic
16. Communication facilities including communication tower, such tower not to exceed one hundred fifty (150) feet in height. No guy wires, outrigging, or other supporting structures may extend beyond the foundation of the tower.
17. Community center (public)
18. Confectionery stores
19. Convenience stores with dispensing gasoline
20. Convenience stores w/o dispensing gasoline
21. Convenience warehouse storage facilities
22. Dance, music or voice studio
23. Day care center (child care center) or preschool
24. Delicatessen
25. Domestic violence shelter
26. Drive-through (fast food) restaurant
27. Educational and charitable institutions
28. Educational and scientific research service

29. Equipment rental and sales yard
30. Florist
31. Food store, delicatessen
32. Furniture refinishing. The entire business must be conducted within a building.
33. Furniture/appliance store
34. Gift shop
35. Gymnasium, private
36. Grocery store
37. Hardware store
38. Hospital
39. Hotels/motels
40. Insurance agency/services
41. Jewelry store
42. Laboratory, medical, dental, optical
43. Laundromat, self-service
44. Library
45. Lodge or club
46. Marriage and family counseling
47. Municipal Uses
48. Nursery for children
49. Offices, professional and service
50. Pharmacy
51. Photographic studio
52. Printing & blueprinting
53. Professional membership organizations
54. Professional schools
55. Reducing/Suntanning
56. Restaurant, bar, tavern
57. Retail stores and services
58. Rooming/boarding house. Residential use is permitted above the ground floor and within the ground floor if to the back or side of a business building.
59. School
60. Service station-full service
61. Service station-mixed use
62. Shoe store
- 62.1 Tattoo/body piercing establishment
63. Temporary medical housing
64. Theater, indoor
65. Tourist information booth
66. Upholstery Shop provided all work is completed within the building.
67. Utility business offices
68. Warehousing, wholesaling

Special Permit Uses.

1. Auto sales and service
2. Billboards

3. Micro Brewery
4. Emergency shelter
5. Hardware stores selling lumber
6. Multi-family dwellings. Residential use is permitted above the ground floor and within the ground floor to the back or side of a business building.
7. Single family dwelling. Residential use is permitted above the ground floor and within the ground floor to the back or side of a business building.
8. Temporary building or contractor's storage and construction yard, incidental to the construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements for the zone in which it is located.
9. Temporary building may be permitted if such building complies with all height and area requirements, and the use complies, except for the fact that the building is a temporary one.
10. Two family dwelling. Residential use is permitted above the ground floor and within the ground floor to the back or side of a business building.
11. Any hotels or apartments higher than the maximum 45' will require a special permit approved by the Planning Commission.

Performance Standards.

1. Area & bulk regulations.

Use	Minimum Lot Size (sq.ft.)	Minimum Lot Width (ft.)	Maximum Coverage (%)	Maximum # Dwelling Units	Front (ft.)	Setbacks Rear (ft.)	Interior Side (ft.)	Side Street (ft.)	Floor Area (sq.ft.)	Maximum Height (ft.)
Garage	None	-	-	C or 25	A	B	12.5	12.5	PRTFA	35'
Minimum Lot Area / Dwelling Unit - 2,800 sq.ft.										
Hotels and Apartments-Except with Special Permit Use										45'
PRTFA = Parking Ratio to Floor Area										

- A. No minimum rear yard setback is required except for a lot abutting the side of a lot in either an R or OP Zone, in which case the minimum rear yard setback is fifteen (15) feet. If a public alley separates such lots, no rear yard is required.
 - B. No minimum interior side yard setback is required except for a lot whose side abuts the side of a lot in either an R or OP Zone, in which latter case the minimum interior side yard setback is five (5) feet. If a public alley separates such lots, no side yard is required.
 - C. The required minimum R Zone setback applies if the frontage between two (2) streets separates an R Zone and either a C Zone. If all frontage between two (2) streets is in a C Zone no front setback is required.
2. Accessory building/garage; detached
 - A. A detached accessory building must be located at least ten (10) feet from the main building.
 - B. On an existing reversed corner lot, a detached accessory building or garage may project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street the garage must be set back from the side street property line a distance of not less than twenty (20) feet.
 3. Accessory building, attached.
 - A. A building which if detached from the main building would constitute an accessory

building may be connected to the main building by a breezeway or similar structure, and in such event shall meet all requirements for the main building. (Ord 3965, 2008; Ord. 3985, 2009; Ord. 4137, 2014; Ord. 4187, 2016; Ord. 4198, 2016)

25-3-15. C-3 Heavy Commercial.

Intent: The intent of a C-3 Heavy Commercial Zone is a zone designed primarily for warehousing, distribution centers, and minimum light manufacturing and processing.

Principle Permitted Uses.

1. Accounting, auditing, bookkeeping services
2. Ambulance service
3. Amusement centers, indoor only
4. Animal clinic, indoor only
5. Animal clinic, indoor/outdoor
6. Arts & crafts studio
7. Auction house
8. Auto sales & service
9. Auto storage and rentals. All processing, packaging or fabricating to be conducted wholly inside a building. Nuisance-producing processing, packaging or fabricating not permitted.
10. Automated or coin-operated car wash
11. Bakery or bakery goods store
12. Bank automated teller facilities, outdoor
13. Bank automated teller facilities, indoor
14. Bank & savings & loan
15. Barber, beauty shop
16. Beverage bottling plant
17. Billboard. Billboards may not be placed everywhere in this zone. See special provisions dealing with billboards in Chapter 25, Article 6
18. Boat building (small)
19. Book & stationary store
- 19.1 Brewery
- 19.2 Brew Pub
20. Bus depot
21. Business college, trade school
22. Cabinet shop. The entire business must be conducted within a building.
23. Campground
24. Church
25. Cleaning plant, commercial. The maximum gross floor area of a building permitted for this use is six thousand four hundred (6,400) square feet. Incidental, non-nuisance-producing processing, packaging, or fabricating is permitted if conducted entirely within a building.
26. Cleaning, laundry agency
27. Clinic
28. Communication facilities including communication tower, such tower not to exceed one hundred fifty (150) feet in height. No guy wires, outrigging, or other supporting structures may extend beyond the foundation of the tower.
29. Community center (public)
30. Confectionery stores

31. Construction storage yard. Yard must be enclosed in Class Three (3) fence.
32. Convenience warehouse storage facility
33. Convenience stores w/o dispensing gasoline
34. Convenience stores with dispensing gasoline
35. Dairy product processing
36. Dance, music or voice studio
37. Day care center (child care center) or preschool
38. Delicatessen
39. Drive-through photo facility
40. Drive-through (fast food) restaurant
41. Educational and scientific research service
42. Equipment rental and sales yard
43. Florist
44. Food store, delicatessen
45. Furniture refinishing. The entire business must be conducted within a building.
46. Furniture/appliance store
47. Gift shop
48. Gymnasium, private
49. Grocery store
50. Hardware store
51. Hospital
52. Insurance agency/services
53. Jewelry store
54. Laboratory, medical, dental, optical
55. Laundry, commercial plant. The maximum gross floor area of a building permitted for this use is six thousand four hundred (6,400) square feet. Incidental, non-nuisance-producing processing, packaging, or fabricating is permitted if conducted entirely within a building.
56. Laundromat, self-service
57. Library
58. Lodge or club
59. Lumber yard
60. Machine shop
61. Marriage and family counseling
62. Metal finishing. Retail and wholesale metal finishing permitted, providing (1) the metal finishing equipment shall be used, and all parts to be or which have been processed, together with all materials and supplies, shall be stored, wholly within a building, and (2) in addition, if metal plating is done, not more than three (3) persons may function in the metal plating line, the metal plating line shall not use a floor area in excess of one thousand five hundred (1,500) square feet, and only a self-contained processing system shall be used. A metal plating line constitutes a metal plating process commencing with racking of a part to be plated and ending with unracking of such part.
- 62.1 Micro Brewery
63. Monument works, stone
64. Mortuary
65. Motel
66. Municipal Uses

67. Nursery for children
68. Nursery for flowers/plants
69. Offices, professional and service
70. Parking lot, garage or facility
71. Pharmacy
72. Photographic studio
73. Printing & blueprinting
74. Professional membership organizations
75. Professional schools
76. Public garage
77. Railroad station
78. Recreational vehicle sales lot
79. Recreational vehicle storage lot, outside
80. Reducing/Suntanning
81. Restaurant, bar, tavern
82. Retail stores and services
83. Sandblasting. All commercial sandblasting of moveable objects to be conducted wholly inside a building.
84. Service station-full service
85. Service station-mixed use
86. Service station -self service dispensing of gas only
87. Shoe store
88. Shop for building contractor. The entire business must be conducted within a building.
89. Sign shop
90. Tack shop
91. Tattoo parlor meeting the following conditions:
 - a. Prior to operating a tattoo parlor, the operator/practitioner must first apply for and receive a permit and certificate of occupancy from the Development Services Director. The permit is subject to revocation if the permittee at any time fails to comply with the conditions set forth herein.
 - b. The operator/practitioner must comply with any and all federal, state and local regulations pertaining to the activity of tattoo artistry on the human skin.
 - c. The operator/practitioner must submit to regular and/or unannounced inspections by the Department of Planning, Building and Development, the Scotts Bluff County Department of Health, and any other authority empowered to regulate such activities.
 - d. All instruments and equipment must be cleaned and sterilized before use. Sterilization of equipment shall be accomplished by exposure to live steam for at least thirty (30) minutes at a minimum pressure of fifteen (15) pounds per square inch, temperature of two hundred forty (240) degrees Fahrenheit or one hundred sixteen (116) degrees Celsius.
 - e. The operator/practitioner must positively identify each client and keep record of the client's name, age, mailing address and phone number and not dispose of such information for a period of at least ten (10) years. Any transfer in ownership or operation of the business will result in revocation of the permit. All records shall be relinquished to the Development Services Director at that time.

- f. The operator/practitioner may not perform work on anyone eighteen (18) years of age or younger without written permission from the minor's parent/parents or legal guardian.
 - g. The operator/practitioner shall comply with the OSHA (Occupation Safety and Health Act) blood borne pathogen rules as it relates to the disposition of hazardous waste materials.
 - h. To prevent the cause and/or spread of infection or disease, any and all tattoo needles used for each client shall be disposed of properly and not reused.
92. Temporary medical housing
 93. Terminal yard, trucking
 94. Theater, indoor
 95. Theater, drive-in
 96. Tire shop, recapping. The entire business must be conducted within a building.
 97. Tourist information booth
 98. Tractor/trailer parking lot
 99. Trailer parks
 100. Travel Trailers
 101. Travel trailer, mobile home, manufactured housing sales lot
 102. Truck and tractor repair
 103. Upholstery Shop provided all work is completed inside the building.
 104. Used car lot
 105. Utility business offices
 106. Warehousing/wholesaling facilities

Special Permit Uses.

1. Emergency shelter
2. Implement dealers
3. Mobile home sales
4. Petroleum storage
5. Processing, packaging or fabricating
6. Public scale
7. Recycling center
8. Residential use is permitted only within the confines of a building in which a permitted use is conducted. Preliminary and final site plans must be submitted to the Planning Commission for review and approval.
9. Rooming/boarding houses
10. Temporary building or contractor's storage and construction yard, incidental to the construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements for the zone.
11. Temporary building may be permitted if such building complies with all height and area requirements, and the use complies, except for the fact that the building is a temporary one.
12. Temporary storage of grain, for not to exceed sixty (60) consecutive days (and a permit for which may be renewed for not to exceed sixty (60) consecutive days), outside a building or structure subject the following additional conditions, to be set forth in the permit:

- a. the grain shall be placed on a concrete floor or some other type of water-proof material that, as determined by the Development Services Director, is equal to a concrete floor,
- b. no part of the grain shall be placed, or caused or permitted to be closer to any property line than any building setback line that has been platted or is required in the zone to which the tract of land is subject,
- c. the permit shall be subject to revocation by the Commission. if the Commission, subsequent to granting the permit, shall determine that the grain, or conditions incidental thereto, or the manner in which the grain is being handled constitutes a public nuisance; and, upon such a determination, the holder of the permit shall promptly comply with any order of the Commission concerning removal or other disposition of the grain.
- d. Provided, no permit for such a use shall be issued and delivered until the permittee shall have executed and delivered to the Development Services Director a written agreement which, as determined by the Director, indemnifies and holds harmless the City, its officers and employees and members of the Planning Commission, against any and all claims of liability for injuries or damages to persons or property caused, in whole or in part, by the presence of the grain: by conditions occurring, in whole or in part, because of presence of the grain or the manner in which the grain is delivered, piled, moved, removed, or otherwise handled; and by any acts of commission or omission on the part of any persons, whether or not the permittee or third persons for whose acts or omissions liability otherwise might or might not be imputable to the permittee. The terms “warehousing” and “wholesaling” shall not be construed to apply to the storage of grain outside a building or structure.

13. Two family dwelling

Performance Standards.

1. Area & bulk regulations.

Use	Minimum Lot Size (sq.ft.)	Minimum Lot Width (ft.)	Maximum Coverage (%)	Maximum # Dwelling Units	Front (ft.)	Setbacks Rear (ft.)	Interior Side (ft.)	Side Street (ft.)	Floor Area (sq.ft.)	Maximum Height (ft.)
Garage	none	-	-		C	A	B	12.5 12.5	PRTFA	35

Minimum Lot Area / Dwelling Unit - No Requirement

PRTFA = Parking Ratio to Floor Area

- A. No minimum rear yard setback is required except for a lot abutting the side of a lot in either an R or OP Zone, in which case the minimum rear yard setback is fifteen (15) feet. If a public alley separates such lots, no rear yard is required.
- B. No minimum interior side yard setback is required except for a lot whose side abuts the side of a lot in either an R or OP Zone, in which latter case the minimum interior side yard setback is five (5) feet. If a public alley separates such lots, no side yard is required.
- C. The required minimum R Zone setback applies if the frontage between two (2) streets separates an R Zone and a C Zone. If all frontage between two (2) streets is in a C Zone, no front setback is required.

2. Accessory building/garage; detached
 - A. A detached accessory building must be located at least ten (10) feet from the main building.
 - B. On an existing reversed corner lot, a detached accessory building or garage may project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street the garage must be set back from the side street property line a distance of not less than twenty (20) feet.
3. Accessory building, attached.
 - A. A building which if detached from the main building would constitute an accessory building may be connected to the main building by a breezeway or similar structure, and in such event shall meet all requirements for the main building. (Ord 3965, 2008; Ord. 3985, 2009; Ord. 4187, 2016; Ord. 4198, 2016)

25-3-16. M-1 Light Manufacturing and Industrial.

Intent: The intent of an M-1 Light Manufacturing and Industrial Zone is a zone permitting most fabricating activities except heavy manufacturing and processing of raw materials.

Principle Permitted Uses.

1. Accounting, auditing, bookkeeping services
2. Ambulance service
3. Amusement centers, indoor only
4. Animal clinic, indoor only
5. Animal clinic, indoor/outdoor
6. Arts & crafts studio
7. Auction house
8. Auto sales & service
9. Auto storage and rental
10. Automated or coin-operated car wash
11. Bakery or bakery goods store
12. Bank automated teller facilities, outdoor
13. Bank automated teller facilities, indoor
14. Bank & savings & loan
15. Barber, beauty shop
16. Beverage bottling plant
17. Billboard. Billboards may not be placed everywhere in this zone. See special provisions dealing with billboards in Chapter 25, Article 6
18. Boat building (small)
19. Book & stationary store
- 19.1 Brewery
- 19.2 Brew Pub
20. Bus depot
21. Business college, trade school
22. Cabinet shop
23. Church
24. Cleaning plant, commercial
25. Cleaning, laundry agency

26. Clinic
27. Communication facilities including communication tower, such tower not to exceed one hundred fifty (150) feet in height. No guy wires, outrigging, or other supporting structures may extend beyond the foundation of the tower.
28. Community center (public)
29. Concrete batch plant
30. Construction storage yard
31. Confectionery stores
32. Convenience stores w/o dispensing gasoline
33. Convenience stores with dispensing gasoline
34. Convenience warehouse storage facilities.
35. Dairy product processing
36. Dance, music or voice studio
37. Day care center (child care center) or preschool
38. Delicatessen
39. Drive-through photo facility
40. Drive-through (fast food) restaurant
41. Educational and scientific research service
42. Equipment rental and sales yard
43. Feed mill
44. Florist
45. Food processing plant, other than meat
46. Food store, delicatessen
47. Fuel yard
48. Furniture refinishing
49. Furniture/appliance store
50. Gift shop
51. Gymnasium, private
52. Grocery store
53. Hardware store
54. Hospital
55. Hotel
56. Ice manufacture cold storage plant
57. Insurance agency/services
58. Jewelry store
59. Laboratory, medical, dental, optical
60. Laundry, commercial plant
61. Laundromat, self-service
62. Library
63. Lodge or club
64. Lumber yard
65. Machine shop
66. Marriage and family counseling
67. Metal finishing
- 67.1 Micro Brewery

68. Monument works, stone
69. Mortuary
70. Motel
71. Municipal Uses
72. Nursery for children
73. Nursery for flowers/plants
74. Offices, professional and service
75. Parking lot, garage or facility
76. Pharmacy
77. Photographic studio
78. Planning mill
79. Printing & blueprinting
80. Processing, packaging or fabricating. All processing, packaging or fabricating to be conducted wholly inside a building. Nuisance-producing processing, packaging or fabricating not permitted.
81. Professional membership organizations
82. Professional schools
83. Public garage
84. Public scale
85. Railroad station
86. Recreational vehicle sales lot
87. Recreational vehicle storage lot, outside
88. Recycling center
89. Reducing/Suntanning
90. Restaurant, bar, tavern
91. Retail stores and services
92. Sandblasting
93. Service station-full service
94. Service station-mixed use
95. Service station -self service dispensing of gas only
96. Shoe store
97. Shop for building contractor
98. Sign shop
99. Single family dwellings for living quarters for watchman of commercial or industrial use property, or for hotels and motels, are the only permitted residential uses in this zone.
- 99.1 Tattoo/body piercing establishment
100. Temporary medical housing
101. Terminal yard, trucking
102. Theater, indoor
103. Theater, drive-in
104. Tire shop, recapping
105. Tourist information booth
106. Tractor/trailer parking lot
107. Travel trailer, mobile home, manufactured housing sales lot
108. Truck and tractor repair
109. Used car lot

110. Utility business offices
111. Warehousing/wholesaling facilities
112. Wholesale stores and distributors

Special Permit Uses.

1. Fertilizer mixing and storage plant
2. Junk yard
3. Petroleum storage
4. Scrap metal processing facility
5. Solid waste transfer station
6. Temporary building or contractor's storage and construction yard, incidental to the construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements.
7. Temporary building may be permitted if such building complies with all height and area requirements, and the use complies, except for the fact that the building is a temporary one, with all use requirements for the Zone.
8. Temporary storage of grain, for not to exceed sixty (60) consecutive days (and a permit for which may be renewed for not to exceed sixty (60) consecutive days), outside a building or structure subject the following additional conditions, to be set forth in the permit:
 - a. the grain shall be placed on a concrete floor or some other type of water-proof material that, as determined by the Development Services Director, is equal to a concrete floor,
 - b. no part of the grain shall be placed, or caused or permitted to be closer to any property line than any building setback line that has been platted or is required in the zone to which the tract of land is subject,
 - c. the permit shall be subject to revocation by the Commission. if the Commission, subsequent to granting the permit, shall determine that the grain, or conditions incidental thereto, or the manner in which the grain is being handled constitutes a public nuisance; and, upon such a determination, the holder of the permit shall promptly comply with any order of the Commission concerning removal or other disposition of the grain.
 - d. Provided, no permit for such a use shall be issued and delivered until the permittee shall have executed and delivered to the Development Services Director a written agreement which, as determined by the Director, indemnifies and holds harmless the City, its officers and employees and members of the Planning Commission, against any and all claims of liability for injuries or damages to persons or property caused, in whole or in part, by the presence of the grain: by conditions occurring, in whole or in part, because of presence of the grain or the manner in which the grain is delivered, piled, moved, removed, or otherwise handled; and by any acts of commission or omission on the part of any persons, whether or not the permittee or third persons for whose acts or omissions liability otherwise might or might not be imputable to the permittee. The terms "warehousing" and "wholesaling" shall not be construed to apply to the storage of grain outside a building or structure.

Performance Standards.

1. Area & bulk regulations.

Use	Minimum Lot Size (sq.ft.)	Minimum Lot Width (ft.)	Maximum Coverage (%)	Maximum # Dwelling Units	Front (ft.)	Setbacks Rear (ft.)	Interior (ft.)	Side (ft.)	Side Street (ft.)	Floor Area (sq.ft.)	Maximum Height (ft.)
Garage	none	-	-	-	Cor20	A	B	-	12.5	-	70

Minimum Lot Area / Dwelling Unit - DU not allowed

- A. No minimum rear yard setback is required except for a lot abutting the side of a lot in either an R or OP Zone, in which case the minimum rear yard setback is fifteen (15) feet. If a public alley separates such lots, no rear yard is required.
 - B. No minimum interior side yard setback is required except for a lot whose side abuts the side of a lot in either an R or OP Zone, in which latter case the minimum interior side yard setback is five (5) feet. If a public alley separates such lots, no side yard is required.
 - C. The required minimum R Zone setback applies if the frontage between two (2) streets separates an R Zone and either a C Zone, M Zone or OP Zone. If all frontage between two (2) streets is in either a C or M Zone, no front setback is required.
2. Accessory building/garage; detached
 - A. A detached accessory building must be located at least ten (10) feet from the main building.
 - B. On an existing reversed corner lot, a detached accessory building or garage may project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street the garage must be set back from the side street property line a distance of not less than twenty (20) feet.
 3. Accessory building, attached.
 - A. A building which if detached from the main building would constitute an accessory building may be connected to the main building by a breezeway or similar structure, and in such event shall meet all requirements for the main building. (Ord. 3951, 2007; Ord, 3985, 2009; Ord. 4187, 2016; Ord. 4198, 2016)

25-3-18. M-2 Heavy Manufacturing and Industrial.

Intent: The intent of an M-2 Heavy Manufacturing and Industrial Zone is a zone permitting the manufacture and processing of goods from raw materials.

Principle Permitted Uses.

1. Accounting, auditing, bookkeeping services
2. Ambulance service
3. Amusement centers, indoor only
4. Animal clinic, indoor only
5. Animal clinic, indoor/outdoor
6. Arts & crafts studio
7. Auction house
8. Auto sales & service

9. Auto storage and rental
10. Automated or coin-operated car wash
11. Bakery or bakery goods store
12. Bank automated teller facilities, outdoor
13. Bank automated teller facilities, indoor
14. Bank & savings & loan
15. Barber, beauty shop
16. Beverage bottling plant
17. Billboard. Billboards may not be placed everywhere in this zone. See special provisions dealing with billboards in Chapter 25, Article 6
18. Boat building (small)
19. Book & stationary store
- 19.1 Brewery
- 19.2 Brew Pub
20. Bus depot
21. Business college, trade school
22. Cabinet shop
23. Church
24. Cleaning plant, commercial
25. Cleaning, laundry agency
26. Clinic
27. Communication facilities including communication tower, such tower not to exceed one hundred fifty (150) feet in height. No guy wires, outrigging, or other supporting structures may extend beyond the foundation of the tower.
28. Community center (public)
29. Concrete batch plant
30. Confectionery stores
31. Construction storage yard
32. Convenience stores w/o dispensing gasoline
33. Convenience stores with dispensing gasoline
34. Convenience warehouse storage facilities.
35. Dairy product processing
36. Dance, music or voice studio
37. Day care center (child care center) or preschool
38. Delicatessen
39. Drive-through photo facility
40. Drive-through (fast food) restaurant
41. Educational and scientific research service
42. Equipment rental and sales yard
43. Feed mill
44. Florist
45. Food processing plant, other than meat
46. Food store, delicatessen
47. Fuel yard
48. Furniture refinishing
49. Furniture/appliance store
50. Gift shop

51. Gymnasium, private
52. Grocery store
53. Hardware store
54. Hospital
55. Hotel
56. Ice manufacture cold storage plant
57. Insurance agency/services
58. Jewelry store
59. Laboratory, medical, dental, optical
60. Laundry, commercial plant
61. Laundromat, self-service
62. Library
63. Lumber yard
64. Machine shop
65. Marriage and family counseling
66. Meat packing
67. Metal finishing
- 67.1 Micro Brewery
68. Monument works, stone
69. Mortuary
70. Motel
71. Municipal Uses
72. Nursery for children
73. Nursery for flowers/plants
74. Offices, professional and service
75. Parking lot, garage or facility
76. Petroleum storage
77. Pharmacy
78. Photographic studio
79. Planning mill
80. Printing & blueprinting
81. Processing, packaging or fabricating
82. Professional membership organizations
83. Professional schools
84. Public garage.
85. Public scale
86. Railroad station
87. Railroad yard or shops
88. Recreational vehicle sales lot
89. Recreational vehicle storage lot, outside
90. Recycling center
91. Reducing/Suntanning
92. Restaurant, bar, tavern
93. Retail stores and services
94. Sandblasting
95. School

96. Service station-full service
97. Service station-mixed use
98. Service station -self service dispensing of gas only
99. Shoe store
100. Shop for building contractor
101. Sign shop
102. Single family dwellings for living quarters for watchman of commercial or industrial use property, or for hotels and motels, are the only permitted residential uses in this zone.
- 102.01 Tattoo/body piercing establishment
103. Temporary medical housing
104. Terminal yard, trucking
105. Theater, indoor
106. Theater, drive-in
107. Tire shop, recapping
108. Tourist information booth
109. Tractor/trailer parking lot
110. Travel trailer, mobile home, manufactured housing sales lot
111. Truck and tractor repair
112. Used car lot
113. Utility business offices
114. Warehousing/wholesaling facilities
115. Wholesale stores and distributors

Special Permit Uses.

1. Asphalt Batch Plant
2. Fertilizer mixing and storage plant
3. Junk yard
4. Kennel, dog
5. Livestock auction or holding pens
6. Rendering plants
7. Scrap metal processing facility
8. Second dwelling for relatives, employees
9. Solid waste transfer station
10. Tanning, curing, storage of skins or hides
11. Temporary building or contractor's storage and construction yard, incidental to the construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements for the zone.
12. Temporary building may be permitted if such building complies with all height and area requirements, and the use complies, except for the fact that the building is a temporary one, with all use requirements for the Zone.
13. Temporary storage of grain, for not to exceed sixty (60) consecutive days (and a permit for which may be renewed for not to exceed sixty (60) consecutive days), outside a building or structure subject the following additional conditions, to be set forth in the permit:
 - a. the grain shall be placed on a concrete floor or some other type of water-proof material that, as determined by the Development Services Director, is equal to a

- concrete floor,
- b. no part of the grain shall be placed, or caused or permitted to be closer to any property line than any building setback line that has been platted or is required in the zone to which the tract of land is subject,
 - c. the permit shall be subject to revocation by the Commission. if the Commission, subsequent to granting the permit, shall determine that the grain, or conditions incidental thereto, or the manner in which the grain is being handled constitutes a public nuisance; and, upon such a determination, the holder of the permit shall promptly comply with any order of the Commission concerning removal or other disposition of the grain.
 - d. Provided, no permit for such a use shall be issued and delivered until the permittee shall have executed and delivered to the Development Services Director a written agreement which, as determined by the Director, indemnifies and holds harmless the City, its officers and employees and members of the Planning Commission, against any and all claims of liability for injuries or damages to persons or property caused, in whole or in part, by the presence of the grain: by conditions occurring, in whole or in part, because of presence of the grain or the manner in which the grain is delivered, piled, moved, removed, or otherwise handled; and by any acts of commission or omission on the part of any persons, whether or not the permittee or third persons for whose acts or omissions liability otherwise might or might not be imputable to the permittee. The terms “warehousing” and “wholesaling” shall not be construed to apply to the storage of grain outside a building or structure.

Performance Standards.

1. Area & bulk regulations.

Use	Minimum Lot Size (sq.ft.)	Minimum Lot Width (ft.)	Maximum Coverage (%)	Maximum # Dwelling Units	Front (ft.)	Setbacks Rear (ft.)	Interior Side (ft.)	Side Street (ft.)	Floor Area (sq.ft.)	Maximum Height (ft.)
Garage	none	-	-	none	20	A	B	-	-	7.5

Minimum Lot Area / Dwelling Unit - DU not allowed

- A. No minimum rear yard setback is required except for a lot abutting the side of a lot in either an R or OP Zone, in which case the minimum rear yard setback is fifteen (15) feet. If a public alley separates such lots, no rear yard is required.
 - B. No minimum interior side yard setback is required except for a lot whose side abuts the side of a lot in either an R or OP Zone, in which latter case the minimum interior side yard setback is five (5) feet. If a public alley separates such lots, no side yard is required.
- ### 2. Accessory building/garage; detached
- A. A detached accessory building must be located at least ten (10) feet from the main building.
 - B. On an existing reversed corner lot, a detached accessory building or garage may project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street the garage must be set back from the side street property line a distance of not less than twenty (20) feet.

3. Accessory building, attached.
 - A. A building which if detached from the main building would constitute an accessory building may be connected to the main building by a breezeway or similar structure, and in such event shall meet all requirements for the main building. (Ord. 3951, 2007; Ord. 3985, 2009; Ord. 4187, 2016; Ord. 4198, 2016)

25-3-19. A Agricultural.

Intent: The intent of an A agricultural zone is a zone in which land is permitted to be used for raising of crops and pasturing cattle and related activities.

Principle Permitted Uses.

1. Agriculture uses, general
2. Home Occupations
3. Irrigation facilities
4. Kennel, dog
5. Municipal Uses
6. Public utility facilities
7. Single family dwelling
8. Stable
9. Tourist information booth
10. Agricultural Estate Dwelling Site.

The intent of this subsection is not to encourage the creation of a large number of agricultural estate dwelling sites (AEDS) but such intent is to allow the “subdivision” or sale, of a portion of a larger tract of land, whereby the smaller parcel created is to be used primarily for dwelling site purposes, upon the following more specific requirements:

a. The AEDS must consist of one or more of the following: (1) An existing farmstead site (an existing vacant home, and accessory unit of buildings, on farm-ranch land; (2) a parcel which would allow a conveyance of property to be used for dwelling purposes; (3) a parcel of marginal usage land (“marginal usage” defined as “land with little, or relatively little, agricultural productivity capability”).

b. Each AEDS with frontage on an existing dedicated public road, shall have a minimum width of 150 feet (as a “front lot” width). In the event such AEDS is of an interior-section type, it shall have a dedicated access road, at least 25 feet in width, to a dedicated public road. Access road(s) serving an AEDS shall be separated by a distance of no less than 1000 feet from another access road, along a dedicated public road. Exception: Less than 1000 feet shall be approved by the State Department of Roads or City of Scottsbluff Development Services Department, whichever is applicable.

c. Each AEDS shall be a minimum of 2.0 acres and a maximum of 20.

d. For each AEDS, the owner shall reserve the balance of the 80 acres of vacant or agricultural land (such 80 acres may, however, have dwelling permitted by 10.a. above). This reservation shall be required (reserved) for as long as the reserved land is zoned Agricultural (A) District. The City Planning Commission and the City Council may permit the creation of an AEDS out of less than 80 acres of reserved land, in certain situations, in the event that the intent of this subsection is maintained. Each 80-acre tract (or less) shall serve the reservation requirements of only one AEDS.

e. Each AEDS shall be shaped and located so as to allow accurate plotting on the official

zoning map of the city (i.e.: abutting on lines identifiable as a segment of section, such as a section line or a 1/4 section line, or upon other readily identifiable features). Additionally, each AEDS shall be subject to the provisions for preliminary plat procedure and requirements from Chapter 21 of the Municipal Code.

f. In reviewing an application for an AEDS, the Planning Commission and the City Council shall take into consideration the effect of such an AEDS upon utilities, roads, drainage, terrain, usage,

zoning, future subdividing; and so forth. If approved, the AEDS parcel, along with the reserved tract, shall be noted by the Development Services Department, for future reference.

g. To obtain an AEDS, an application for the same shall be presented by the owner(s) to the City of Scottsbluff Development Services Department. The application shall be reviewed by the Planning Commission, at a regular meeting of the same, and if approved, referred to the Scottsbluff City Council for its approval. If approved by the City Council, there shall then be prepared a "Certificate" identifying the AEDS, which certificate shall be filed in the real estate records of Scotts Bluff County.

h. In the event that after approval an AEDS is no longer actually used for a purpose in existence upon such approval (because of which purpose, such approval was given), then the approval granted by the City Council shall automatically be revoked.

i. Each Agricultural Estate Dwelling Site shall be a minimum of two (2) acres for each dwelling, (maximum of two (2) dwellings per site), excluding any and all easements and rights of ways with a maximum upwards of twenty (20) acres.

j. Before any final action can be taken, applicant shall submit a receipt from the Scotts Bluff County Treasurer's Office showing that all current property taxes have been paid.

Special Permit Uses.

1. Accessory single-family dwelling for persons customarily employed or engaged in farming and ranching
2. Cemetery
3. Church
4. Community center (public)
5. Educational and charitable institutions
6. Florist
7. Fruit, vegetable stand
8. Hospital
9. Lodge or club
10. Nursery for flowers and plants
11. Temporary building or contractor's storage and construction yard, incidental to the construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements for the zone.
12. Temporary storage of grain, for not to exceed sixty (60) consecutive days (and a permit for which may be renewed for not to exceed sixty (60) consecutive days), outside a building or structure subject the following additional conditions, to be set forth in the permit:
 - a. the grain shall be placed on a concrete floor or some other type of water-proof material that, as determined by the Development Services Director, is equal to a

- concrete floor,
- b. no part of the grain shall be placed, or caused or permitted to be closer to any property line than any building setback line that has been platted or is required in the zone to which the tract of land is subject,
 - c. the permit shall be subject to revocation by the Commission. if the Commission, subsequent to granting the permit, shall determine that the grain, or conditions incidental thereto, or the manner in which the grain is being handled constitutes a public nuisance; and, upon such a determination, the holder of the permit shall promptly comply with any order of the Commission concerning removal or other disposition of the grain.
 - d. Provided, no permit for such a use shall be issued and delivered until the permittee shall have executed and delivered to the Development Services Director a written agreement which, as determined by the Director, indemnifies and holds harmless the City, its officers and employees and members of the Planning Commission, against any and all claims of liability for injuries or damages to persons or property caused, in whole or in part, by the presence of the grain: by conditions occurring, in whole or in part, because of presence of the grain or the manner in which the grain is delivered, piled, moved, removed, or otherwise handled; and by any acts of commission or omission on the part of any persons, whether or not the permittee or third persons for whose acts or omissions liability otherwise might or might not be imputable to the permittee. The terms “warehousing” and “wholesaling” shall not be construed to apply to the storage of grain outside a building or structure.

13. Wind Energy Conversion Systems

Performance Standards.

1. Area & bulk regulations.

Use	Minimum Lot Size (sq.ft.)	Minimum Lot Width (ft.)	Maximum Coverage (%)	Maximum # Dwelling Units	Front (ft.)	Setbacks			Side Street (ft.)	Floor Area (sq.ft.)	Maximum Height (ft.)
						Rear (ft.)	Interior	Side (ft.)			
SF Dwelling		20	-	1		50	50	20	50	-	75
Garage									12.5		

Minimum Lot Area / Dwelling Unit - 20 acres

2. Accessory building/garage; detached

- A. A detached accessory building must be located at least ten (10) feet from the main building.
- B. On an existing reversed corner lot, a detached accessory building or garage may project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street the garage must be set back from the side street property line a distance of not less than twenty (20) feet.

3. Accessory building, attached.

- a. A building which if detached from the main building would constitute an accessory building may be connected to the main building by a breezeway or similar structure, and in such event shall meet all requirements for the main building.(Ord. 4072, 2012)

25-3-20. AR Agricultural Residential.

Intent: The intent of a (AR) Agricultural Zone is to provide a transition from agricultural and ranching to low density residential development. In this zone are permitted large residential estates with accompanying agricultural land uses that do not conflict with residential uses.

Principle Permitted Uses.

1. Agricultural uses, general
2. Florist
3. Home occupations
4. Irrigation facilities
5. Municipal Uses
6. Single family dwelling
7. Stable
8. Tourist information booth

Special Permit Uses.

1. Cabinet shop
2. Church
3. Community center (public)
4. Educational and charitable institutions
5. Fire stations
6. Fruit, vegetable stand
7. Hospital
8. Kennel, dog
9. Lodge or club
10. Nursery for flowers and plants
11. Temporary building or contractor's storage and construction yard, incidental to the construction of a residential development or a real estate sales office to be used in marketing lots in a new subdivision, may be permitted if such a building or structure complies with all height and area requirements for the zone.

Performance Standards.

1. Area & bulk regulations.

Use	Minimum	Minimum	Maximum	Maximum #	Setbacks					Floor	Maximum
	Lot Size (sq.ft.)	Lot Width (ft.)	Coverage (%)	Dwelling Units	Front (ft.)	Rear (ft.)	Interior (ft.)	Side (ft.)	Side Street (ft.)	Area (sq.ft.)	Height (ft.)
SF Dwelling 5 acres				1	50	50	20	50			75
Garage								12.5			

Minimum Lot Area / Dwelling Unit - 5 acres

2. Accessory building/garage; detached
 - A. A detached accessory building must be located at least ten (10) feet from the main building.
 - B. On an existing reversed corner lot, a detached accessory building or garage may project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street

the garage must be set back from the side street property line a distance of not less than twenty (20) feet.

3. Accessory building, attached.

- A. A building which if detached from the main building would constitute an accessory building may be connected to the main building by a breezeway or similar structure, and in such event shall meet all requirements for the main building.

Special regulations for AR-1 Zoning District:

The following rules are applicable in AR-1 Zoning District:

1. No pens or buildings primarily used for the housing of any livestock, swine or fowl may be located closer than fifty (50) feet from the lot line.
2. No more than three (3) percent of the lot size may be used for pens, corrals or buildings for the housing of livestock, swine or fowl.
3. All fowl or swine shall be confined within pens, corrals or buildings.
4. No horses may be kept on a lot smaller than one-fourth acre. The number of horses on the lot may not exceed one per one-fourth acre. Colts are considered as horses within the meaning of this rule.
5. No sheep shall be kept on a lot smaller than one-fourth acre. The maximum number of sheep allowed on the lot is three sheep per acre. Lambs are considered sheep within the meaning of this rule.
6. No cattle may be kept on a lot smaller than one acre. The number of cattle may not exceed three per acre. Calves and steers are considered cattle within the meaning of this rule.
7. No swine may be kept on a lot smaller than four acres. The number of swine may not exceed one per acre. Immature swine are considered swine within the meaning of this rule. (Ord. 3951, 2007)

25-3-22 F Flood Plain.

Intent: The intent of an F Flood Plain Zone is a zone comprising land which is particularly subject to flooding

Principle Permitted Uses.

1. Agricultural uses, general
2. Municipal Uses
3. Tourist information booth

Special Permit Uses.

None

Performance Standards.

1. Area & bulk regulations.

Use	Minimum	Minimum	Maximum	Maximum #	Front	Setbacks			Floor	Maximum
	Lot Size	Lot Width	Coverage	Dwelling Units		Rear	Interior	Side Side Street		
	(sq.ft.)	(ft.)	(%)		(ft.)	(ft.)	(ft.)	(ft.)	(sq.ft.)	(ft.)
	none	-	A	none	A	A	A	A	SP	A

SP = special permit

- A. No height and area regulations are specified for a F Zone. Preliminary and final site plans must be submitted to the Commission for review and approval.
2. Accessory building/garage; detached

- A. A detached accessory building must be located at least ten (10) feet from the main building.
 - B. On an existing reversed corner lot, a detached accessory building or garage may project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the main structure, and if entrance to the garage is from the side street the garage must be set back from the side street property line a distance of not less than twenty (20) feet.
3. Accessory building, attached.
- A. A building which if detached from the main building would constitute an accessory building may be connected to the main building by a breezeway or similar structure, and in such event shall meet all requirements for the main building. (Ord. 3951, 2007)

25-3-22.1. GG-O Gateway Green Overlay Zone (GG-O).

Purpose.

The Gateway Green Overlay (GGO) Zone is intended to:

- A. Promote the general health, safety and welfare of the community
- B. Create a sense of continuity throughout the corridor with harmonious design standards for public improvements and private property development.
- C. Preserve and enhance the historical attractions and landmarks of Scottsbluff and the surrounding area.

Design Guidelines

The GGO Zone is an overlay zone that supersedes those of any other zoning district to which a tract of land may be subject and shall be read together and incorporated with the Landscaping Article of this Chapter found at Section 25-22-1 through 25-22-10 of the Municipal Code, referred to as the “Landscaping Article”. All new development and redevelopment must conform to the design guidelines. All plans shall be reviewed and approved for design, landscaping and architectural detail and compatibility. No design plans that have been approved by the Planning Commission may be altered without approval of the planning commission.

Boundaries

The GGO Zone shall consist of all land located within one thousand feet measured perpendicular from the right-of-way of the following transportation corridors:

- A. U.S. Highway 26, extending from the East Extraterritorial Boundary to the West Extraterritorial Boundary
- B. Highland Road, extending from the intersection with Airport Road to the intersection with U.S. Highway 26
- C. McClellan Expressway (East Bypass Highway 71) from the North Platte River to its intersection with U.S. Highway 26,
- D. Broadway Avenue from the North Platte River to its intersection with South Beltline Highway
- E. Avenue I from the North Platte River to its intersection with South Beltline Highway
- F. Highway 71 from the intersection with Highway 26 to the north Extraterritorial Boundary
- G. Highway L-79-G (West 20th Street extended) from the west Extraterritorial boundary to the West corporate limits of the city.

Development Action

There shall be no development action within the GGO Zone without permission of the Planning Commission. Any person or entity desiring a development action within the GGO Zone must submit

plans to the Planning Commission for review and approval.

Development Standards

The development standards were formulated to create a visually pleasing GGO Zone and to convey the values of the City of Scottsbluff.

A. Signs

1. Monument Signs - One ground sign, monument type with a maximum height of 6' shall be permitted on each lot. Total area of sign not to exceed 250 square feet. Sign structure materials shall be comparable with materials used on the facade of the principal building.
2. Wall Signs and Marquee Signs – One wall sign or marquee sign shall be permitted per building side.
3. One 25' pole sign will be allowed in the GGO zone per development.
4. Other signs may be permitted, in the sole discretion of the Planning and Development Director, if the sign is small in scale, is directional in nature and meets the intent of this section.

B. Lighting

1. Lighting on private property shall be in harmony with poles and lanterns within specified corridors. Lights shall provide safe and efficient lighting and be without glare for pedestrians and motorists passing by. All lighting shall be designed to avoid intrusion on adjacent properties and adjacent roads.

C. Overhead lines

1. Eliminate the need for power cables by burying cables underground.

D. Parking Lot Design

1. All parking areas shall be paved to meet current ordinance requirements, including those in the Landscaping Article.
2. All developments shall have off-street parking.
3. Parking areas over 50 spaces shall include landscape islands. All landscape islands shall have a minimum of 100 square feet of open ground and at least 300 cubic foot of good soil rooting volume for each tree. One half of all landscape islands must include a deciduous canopy tree. Understory plantings of shrubs/perennials/groundcover shall be durable and able to withstand foot traffic and frequent breakage from pedestrian traffic. Landscape islands shall be evenly distributed to the maximum extent possible.

4. Parking areas should be placed between or behind buildings unless lot layout does not allow. If layout does not allow for parking between or behind buildings then conceptual parking design may be approved by the Planning Commission.
5. All parking areas visible from the transportation corridors shall have a complete visual buffer of 4' minimum height.
6. Where parking lots abut adjacent residential zoned areas a buffer yard of 20' minimum is required.

E. Landscaping and Screening Standards

Landscaping is critical in creating a visually pleasing appearance of the transportation corridors in the City of Scottsbluff. Landscape design and development shall be priority in the planning process. To the extent reasonably feasible, all landscape plans shall be designed to incorporate water conservation materials and techniques in order to comply with each of the xeriscape landscaping principles listed below. Xeriscape landscaping principles do not include or allow artificial turf or plants, mulched (including gravel) beds or areas without landscape plant material, paving of areas not required for walkways, plazas or parking lots, bare ground, weed covered or infested surfaces or any landscaping that does not comply with the standards of this section. See appendix A for recommended species.

1. Xeriscape landscaping principles are as follows:
 - a. Design. Identify zones of different water requirements and group plants together that have similar water needs;
 - b. Appropriate use of Turf. Limit high-irrigation turf and plantings to appropriate high-use areas with high visibility and functional needs;
 - c. Low-Water-Using Plants. Choose low-water-demanding plants and turf where practicable;
 - d. Irrigation. Design, operate and maintain an efficient irrigation system. Drip irrigation shall be used in all landscape beds, If sprinklers are used for turf, no water shall be sprayed over sidewalks, streets or park lots. Areas of low water use landscaping may be included but must be indicated on the plans. Irrigation water must be available for the initial two years after planting to establish low-water use landscapes;
 - e. Soil Preparation. Incorporate soil amendments before planting;
 - f. Mulch. Add mulch to planting beds to a minimum depth of 3" around trees and shrubs and 1" around perennials and ornamental grasses. Organic mulch is preferred, Rock mulch may be used only if pre-approved by the Planner;
 - g. Maintenance. Provide regular and attentive maintenance.
2. Screening

- a. All loading and service areas that are within a 50' of a side or rear lot line abutting property that is residentially zoned shall be surrounded by a 6' high masonry wall or solid wood or PVC fence with opaque gate.
- b. Waste receptacles, including dumpsters, garbage cans, or grease containers shall be located in the rear or side yard of lot and no more than 20' from residentially zoned areas. All waste receptacles shall be screened from view from all property lines and public areas of the site by a minimum 6' high evergreen planting, masonry wall, wood or PVC fence.
- c. Rooftop mechanical equipment, including HVAC and utility equipment shall be screened from adjacent streets, sidewalks, residential, public and institutional uses. Screening shall consist of parapet walls or an opaque enclosure around the equipment that is constructed of one of the materials used on the primary facade of the principal structure.
- d. Ground or wall mounted mechanical equipment such as HVAC equipment, transformers, generators, and gangs of multiple utility meters shall be screened from adjacent streets, sidewalks, residential, public and institutional uses. Screening shall consist of evergreen planting masonry wall, wood or PVC fencing or other opaque enclosure around the equipment that is constructed of one of the permanent and durable materials used on the primary facade of the building. The height of the planting or fence shall be sufficient to effectively screen the equipment from view.
- e. Outdoor storage shall be prohibited.

3. Buffer Yards

- a. Developed for the purpose of providing an effective visual screen between two dissimilar uses.
- b. Buffer Yards shall be required along and inside the property line of commercial property abutting a residentially zoned property.
- c. Buffer Yards shall be 20' minimum in depth and shall meet the following criteria:
Be planted with a staggered double row of evergreen trees at least 6' in height, or be planted with a single row of deciduous shade trees 2" caliper trunk minimum and two staggered rows of evergreen shrubs at least 3' in height, planted a maximum of 4' on center.
- d. If a 6' high solid wood or PVC fence or masonry wall is incorporated into the design the buffer yard may be reduced by 10'. Finished side of fencing will face abutting property. A row of evergreen trees at least 6' in height, or a

single row of deciduous shade trees 2" caliper trunk minimum and a staggered row of evergreen shrubs at least 3' in height, planted a maximum of 4' on center must accompany the fence.

4. Maintenance of Buffer Yard

- a. The buffer yard shall be maintained so as to provide an effective visual screen. If plant material shall die or be removed such that the buffer yard no longer functions, the plant material shall be replaced by the property owner.

5. Landscaping

a. Building Perimeter Walls

- 1. Shrubs shall be planted within 10' of the foundation of the primary structure along each building facade at a density that will obscure 60% of the building foundation after 5 years, except for sides or rear of building used for loading or service area.

- b. Along each street frontage there shall be, at a minimum, 10' wide landscape strip, continuous along the frontage except for the perpendicular crossings for driveways and utilities. The landscape strip shall be planted with shade trees at a rate of one per 40' of linear frontage or evergreen trees at a rate of one per 20' of linear frontage. Evergreens may only be planted if planting bed is a minimum of 20 feet wide. Trees may be spread irregularly in informal groupings or be uniformly spaced, as consistent with large overall planting patterns and organization. Trees shall be spread a minimum of 15' apart for large shade trees and evergreens, and a minimum of 10' apart for small ornamentals (list provides). Grouping of trees may be no more than 150' apart. The space between the trees should be planted and maintained to aid the health and growth of the trees. There must be a maintained, non-turf grass landscape bed under and around trees, to be a minimum of 40 square feet per large shade tree or evergreen and 30 square feet per small or medium tree. The landscape zone must be planted to appropriate and compatible shrubs or herbaceous grasses or perennials to cover at least 50% of the bed. The remainder may be mulch. Organic mulch should be used if possible. Screen standards shall comply with Sections 25-22-7 and 25-22-8 of this Code. Where overhead wires exist directly over tree planting area, small ornamental trees shall be substituted for required shade trees at an equal number.

- c. Plant material, wall or fencing in any required landscaped area shall not obstruct the view from the off street parking facility to any driveway approach, street, alley or sidewalk. Landscaping shall further not obstruct any views among parking spaces and circulation ways, or visibility between vehicles and pedestrians.

- d. Storm water retention ponds shall be landscaped and developed in such a way as to enhance or be in harmony with the surrounding site landscape.
 - 1. Retention basins should be “free form” following the natural contours of the land. If land lacks contour, the basins shall be created to look like a natural depression. Side slopes should vary to give the appearance of a natural condition.
 - 2. Trees and shrub groupings shall be planted intermittently along the ridge of the retention pond to create the appearance of the plants naturally occurring.
 - 3. Approved erosion control measures will be required on all slopes. Use of Inorganic landscape materials is prohibited. No artificial trees, shrubs, plants or turf shall be used to fulfill the minimum requirements for landscaping. Inorganic materials such as stone or decorative pavers, may be used provided that such material does not compromise more than 25% of the minimum required landscaped area. When calculating the area to determine how much inorganic material may be used, the area of driveways and walkways shall not be counted. Loose rock and cobblestones shall not be permitted within any required landscaped area which is within 10' of a traveled street surface.
- e. Minimum Tree and Shrub Sizes
 - 1. All deciduous shade trees shall be a minimum 1 ½ " caliper measured 12" from above the root ball.
 - 2. All evergreen trees shall be a minimum 5' in height measured from the top of the root ball to the top of the tree.
 - 3. All ornamental deciduous trees shall be a minimum 1 ½" caliper measured 12" from above the root ball.
 - 4. Shrubs shall be two gallon size or greater or 15" in height if balled or burlapped.
 - 5. All perennials and ornamental grasses shall be 1 quart size or greater.
- f. Upon installation of required landscape materials, each owner shall take appropriate actions to ensure their continued health and maintenance. Required landscaping that does not remain healthy shall be replaced consistently with this section and the approved landscaping plan for the project.

F. Minimum Species Diversity.

To prevent uniform insect or disease susceptibility and eventual uniform senescence on a development site or in the adjacent area or the district, species diversity is required and expansive monocultures are prohibited. The following minimum requirements shall apply to any development plan.

Number of trees on site
Maximum percentage of one species
10-19: 33%
30-39: 25%
40 or more: 15%

G. Use of Approved Species.

Regionally native plants should be used when possible to help aid biodiversity and convey a sense of place with the natural context of our community. Ninety percent (90%) of all required trees planted must be from the approved list provided in Appendix A.

H. Redevelopment.

In the event any property owner or occupant owning or possessing property located within the GGO overlay zone commences a remodel or redevelopment project, the cost of which exceeds \$100,000.00 based upon the building permit issued by the City's Planning and Development Department, upon property that does not then meet the requirements of this section then the property owner or occupant will be required to spend 3% of any remodel or redevelopment project toward bringing the property and landscaping up to the development standards in this section. Once the property and landscaping meet the requirements of this section, the property owner or occupant will no longer have to spend a portion of the remodel or redevelopment project to make improvements in order to comply with this section. In addition, if the property owner or occupant is able to show they are unable to bring the property into compliance because of the property's topography or features, then the property owner or occupant may appear before the City's Planning Commission to explain why they cannot comply. If the Planning Commission finds the property owner or occupants are unable to comply with the requirements of this section for the reasons stated above, then it may excuse the property owner or occupant from attempting to comply and instead allow them to pay an amount equal to 3% of their project directly to the City for use by the City on Gateway Green projects within the GGO overlay zone or other Gateway and Green projects on City improvements or parks.

Definitions

1. Buffer Yard: A landscaped area intended to separate and partially obstruct the view of two (2) adjacent land uses or properties from one another.

2. Gateway: An intersection designated as an entrance into the city or into the downtown area that is planned for additional design elements to “announce” the arrival to a special place.
3. Landscaped Area: The area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.
4. Storm Water Retention Ponds: Ponds or basins designed to hold rain water that has run off the surrounding landscape of lawns, roads, and rooftops.
5. Evergreen Planting: Dense planting of evergreen plant material that creates an opaque barrier.

Appendix A

Approved Deciduous Shade Trees

<u>Botanical Name</u>	<u>Common Name</u>
Aesculus glabra	Ohio Buckeye
Catalpa speciosa	Northern Catalpa
Celtis occidentalis	Common Hackberry
Ginkgo biloba	Ginkgo
Gleditsia triacanthos var. inermis	Honeylocust (avoid “Sunburst”, other varieties okay)
Gymnocladus dioicus	Kentucky Coffeetree
Populus deltoides	Eastern Cottonwood (only on very large sites, may not be used for parking lot plantings)
Quercus alba	White Oak
Quercus macrocarpa	Bur Oak
Quercus macrocarpa x robur	Heritage Oak
Quercus muehlenbergii	Chinkapin Oak
Quercus robur	English Oak
Tilia americana	American Linden
Tilia cordata	Littleleaf Linden
Tilia tomentosa	Silver Linden
Ulmus americana	American Elm (Dutch Elm Disease resistant varieties only)
Ulmus x sp.	Hybrid Elm (check with Dev. Services for specific varieties)

Due to the Emerald Ash Borer destroying large quantities of Ash trees in the Eastern United States and its progressive movement west, Ash trees will be prohibited in GGO Zones.

Approved Small Ornamental Trees

<u>Botanical Name</u>	<u>Common Name</u>
Amelanchier x grandiflora	Serviceberry

Crataegus crusgalli x intermis	Thornless Cockspur Hawthorn (Horizontally branching-Not for use in parking lots or near sidewalks)
Crataegus ambigua	Russian Hawthorn
Malus spp.	Crabapple (Choose varieties with small, persistent fruit)
Syringa reticulate	Japanese Tree Lilac
Viburnum lentago	Nannyberry Viburnum
Acer tataricum	Tatarian Maple “Hot Wings”
Prunus americana	American Plum “Princess Kay”
Quercus gambelii	Gambel Oak

Approved Evergreen Trees

<u>Botanical Name</u>	<u>Common Name</u>
Abies concolor	Concolor fir
Juniperus spp.	Juniper (columnar junipers may only be used for screening purposes, will not count as required tree on street frontages)
Juniperus scopulorum	Rocky Mountain Juniper
Juniperus virginiana	Eastern Redcedar
Picea glauca var. densata	Black Hills Spruce
Picea pungens	Colorado Spruce
Pinus aristata	Bristle Cone Pine
Pinus cembroides	Pinyon Pine
Pinus contorta	Lodgepole Pine
Pinus flexilis	Limber Pine (not salt tolerant, avoid use near parking lots and roadways)
Pinus nigra	Austrian Pine
Pinus ponderosa	Ponderosa Pine (not salt tolerant, avoid use near parking lots and roadways)

(Ord. 4072, 2012; Ord. 4151, 2015)

25-3-23 General requirements

(1) Accessory buildings. Accessory buildings, regardless of the direction they face, may not project beyond the rear of the main building. Accessory structures under two hundred square feet shall be anchored to a four inch concrete slab, pier footings, or secured by some other means approved by the Development Services Director or his/her designee.

(2) Building projections; lateral. Eaves may extend into the front yard and rear yard setback area not to exceed a distance of two feet (2'), but may not extend into a side yard setback area. Porches, covered porches, decks, platforms or terraces not over three feet (3') above the average level of the adjoining ground may extend eight feet (8') into the required front yard. This exception shall not exceed any more than eight feet (8') into any front yard setback established in the zoning district. Covered porches, decks, platforms or terraces shall not be enclosed with any solid material such as screening, siding, plywood, or other solid material normally used for outside wall covering. Any railing shall comply with the requirements of the adopted building code and shall be at least 50% open to the passage of air and light. Open or enclosed fire escapes, fireproof outside stairways, or balconies, may not project more than five feet (5') into a yard, nor more than three and one-half feet

(3.5') into a court.

(3) Buildings, structures; projections; vertical. In measuring height of buildings or structures for compliance with this Chapter, the following parts of buildings or structures are not included, except where expressly otherwise provided: parapet walls not more than four (4) feet high, chimneys, cooling towers, elevators, bulkheads, fire towers, grain elevators, penthouses stacks, stage towers or scenery lofts, sugar towers, ornamental tanks, radio or television towers, ornamental towers, monuments, cupolas, domes and spires, and necessary mechanical appurtenances; provided, such projections shall not be so placed as to obstruct light or ventilation.

(4) Covered patio or porch. A covered patio, porch, or similar accessory structure must comply with all yard area and space requirements applicable to an attached or detached accessory building, whichever is applicable. A front covered patio or porch shall not be enclosed. If a front covered patio or porch is enclosed, it shall no longer fall under this definition and shall be considered part of the building.

(5) Carport. A carport may be attached to the main residence. If the carport is open on two sides, it may be built to the interior property line. The interior lot line side of the carport shall not be enclosed. Storm water runoff from the carport roof shall not drain onto adjoining property. There shall be an opening of a width of not less than thirty-six inches and of a height not less than that of a standard door to allow transportation between the front and back yards.

(6) Common area. Where a building adjoins an area held in common with other property owners in the immediate vicinity, the roof overhang of the building may encroach into the commonly held area provided that the minimum spacing between buildings as mandated by the applicable fire prevention code is maintained.

(7) Corner lot; obstructions. No building or structure, or a part thereof, may be built on a corner lot in any R Zone, or residentially used lot or tract of land, within a triangular area bounded by the lot lines abutting two (2) intersecting streets and a line connecting a point lying on each lot line twenty (20) feet from the point of intersection of the lot lines. Shrubs within this area may not exceed three (3) feet in height and trees therein must be trimmed to a height above the curb or established street grade of at least eight (8) feet.

(8) Corner lot; side street. A building on a corner lot shall be set back from the side street not less than one-half ($\frac{1}{2}$) of the distance required by this Chapter for a front building setback. In zones C-1, C-2, and C-3, no building or structure, or any part thereof, shall be constructed within a triangular area at the street corner of a lot or tract which has, as its sides, sides herein designated and described. Side A shall consist of a side that borders the lane of traffic approaching the intersection, and that is fifteen (15) feet in length. Side B shall consist of a side that borders the lane of traffic leaving the intersection, and that is five (5) feet in length. Side C shall be the hypotenuse.

(9) Decorative structures. A special permit may be issued to erect in a front setback area a decorative structure, exclusive of signs, which does not have a height in excess of three (3) feet above the ground.

(10) Feedlots. New feedlots and the expansion of existing feedlots are not permitted within the City of Scottsbluff's zoning jurisdiction.

(11) Hotels, motels; lot area. Lot area requirements for dwelling units apply to hotels and motels which provide kitchen facilities in any room, suite, or apartment.

(12) Lot dimensions; reduction. After the effective date of this Chapter, no lot area, size or other dimension may be reduced below the minimum lot area, size, or other dimension required by this Chapter. If the area, size or other dimension is below such minimum requirements when this Chapter

becomes effective, it may not be reduced further.

(13) Particular streets; setbacks. All buildings and structures, except fences and signs, shall be set back from the following streets not less than the following distances:

- (a) from East side of 1st Avenue between East 15th Street and East Overland, ten (10) feet,
- (b) from East side of 1st Avenue between East 19th and East 20th Streets, ten (10) feet,
- (c) from both sides of Broadway Avenue between the South City Limits and West Overland Drive, twenty (20) feet,
- (d) from both sides of West 27th Street between Broadway Avenue and the West City limits, twenty (20) feet, and
- (e) from both sides of East Overland Drive between Railway Street and the East City limits, twenty (20) feet. If setbacks required by other provisions of this Chapter are greater than those specified in this section, the setback requirements of such other provisions shall govern.

(14) Railroad intersection. No building or other structure may be placed on a triangular tract of land which on one side abuts a public street that is intersected by a railroad track, on a second side abuts the railroad right-of-way, and the third boundary line which, extended, intersects the centerline of the nearest rail and the nearest right-of-way line of the street at points respectively, which are less than fifty (50) feet distant from the point of intersection of such centerline of the nearest rail and such right-of-way line of the street extended.

(15) Rear yard; depth; area. In computing depth or area of a rear yard for a lot whose rear yard opens into an alley, one-half ($\frac{1}{2}$) of the width of the alley is considered to be part of the yard.

(16) Semidetached dwellings; bungalow court; setbacks. For purposes of the application of front, side, and rear yard setbacks, a semidetached (two-family) dwelling or a bungalow court is considered to be one (1) building occupying one (1) lot.

(17) Setbacks; front. Front yard setback requirements apply to that part of the yard abutting a front street whether the building on the lot fronts on the front or a side street. A building on a corner lot shall be set back from the side street not less than one-half the distance required by the Chapter for a front building setback. In zones C-1, C-2 and C-3 no building or structure, or any part thereof, shall be constructed within a triangular area at the street corner of a lot or tract which has, as its sides, sides herein designated and described. Side A shall consist of a side that borders the lane of traffic approaching the intersection, and that is fifteen (15) feet in length. Side B shall consist of a side that borders the lane of traffic leaving the intersection, and that is five (5) feet in length. Side C shall be the hypotenuse. Accessory buildings, regardless of the direction they face, may not project beyond nor into any yard required by the Chapter, nor may they be located in such yard.

(18) Setbacks; plat. If setbacks greater than required by this Chapter are shown in a recorded plat of an addition or subdivision which has been approved by the City Council, compliance shall be had with the setbacks shown in the plat.

(19) Setbacks; quarter section lines. If a track abuts upon or is adjacent to a quarter section line on which no public street, alley, highway, road or way has been established, the front and rear setback requirements for buildings and structures which are established elsewhere in this Chapter shall apply to that part of the tract which so abuts or is so adjacent as if the quarter section line were the centerline of a platted street which is one hundred feet in width, and as if the tract or, as the case may be, part of the tract fronted on such street.

(20) Subdivided lot; noncompliance; special permit. Anything in this Article to the contrary notwithstanding, if the City Council shall have approved the subdivision of a lot (whether by approval of a final replat or approval of a subdivision without a plat) into two (2) or more tracts on each of which there has existed since prior to June 10, 1974 one (1) or more residence buildings, and after

the subdivision one (1) or more of such tracts or buildings shall not comply, because of such subdivision, with one or more other requirements of this Article, the Planning Commission, upon an application made pursuant to Article 16 and compliance with all other requirements of such Article, may issue a special permit waiving such noncompliance with Article 3, subject to such conditions, if any, as the permit may prescribe.

(21) Swimming pool; location. A swimming pool or similar accessory structure may not be located in either a front or side yard setback area.

(22) Use of Land, Public Utility. The use of land (exclusive of public streets and alleys) and buildings in any location for public utility (whether publicly or privately owned) purposes which the Commission finds reasonably necessary for the public convenience and welfare. The permits authorized in

subdivisions (3) and (4) of the preceding sentence may not be granted for more than one (1) year, but may be renewed for periods not exceeding one year each for written application made at least thirty (30) days before the one period expires.

(23) Uses; illegal; existing. No use of any lot, tract of land, building or structure which was illegal at the time this Chapter was enacted is made legal by the enactment of this Chapter unless the use conforms fully to the requirements of this Chapter.

(24) Uses requiring special permit. The following uses which, in absence of a special permit granted by the Planning Commission, are not permitted in any zone or, as the case may be, in certain zones are permitted if the Planning Commission grants a special permit for the use:

1. Accessory living quarters for persons employed in agricultural work on the land
2. Animal hospital or dog kennel
3. Slaughtering of animals or poultry
4. Outdoor amusement enterprises
5. Cemetery
6. A family child care home which is already permitted in a zone when providing care for more than 12 hours per day. Provided that any individual child may only be present for 12 hours or less per day but the family child care home may operate any time of the day or night after a special permit is approved.
7. Drive-in theater
8. Golf course or driving range
9. Hospital, sanitarium or chemical dependency rehabilitation facility
10. Livestock feeding or sale yard
11. Nuisance-producing agricultural use
12. Nursing home
13. Private club or social center
14. Sand or gravel pit or plant, borrow pit, stripping of top soil, or recycling concrete rubble and the retail sale of the resulting product
15. Private or parochial school or similar institution
16. Oil or gas well, and
17. Facility providing temporary care for runaway or homeless minors. The term "runaway or homeless minors" includes, but is not limited to, minors of that description who are placed in the facility by order of a court or by other public agency.

(25) Yard space; openness. Except as otherwise permitted in this Article, the minimum required yard must be open above its lowest point to the sky. A yard or open space required for one building or structure may not be used to fulfill a yard or open space required for any other building or structure. (Ord. 3951, 2007; 3971, 2008; 3985, 2009; 4056, 2011; Ord. 4208, 2017)

25-3-25. Miscellaneous regulations.

No provisions of this section, except sections 25-3-22 (1) and 25-3-22 (2) are applicable to a PBC Zone. Any provisions in the aforementioned sections which conflict with any of the provisions of Article 13 shall, to the extent of the conflict, constitute exceptions to and modify the conflicting provisions of such Article.

- (1) Basement garages; grade. No basement garage may be constructed with a front entrance below the established grade nor may such an entrance be constructed in an existing building or structure, unless proper drainage, as determined by the development Services Director, is provided.
- (2) Buildings, structure; design; construction. No building or structure may be erected or structurally altered unless its architectural design and construction conforms to applicable provisions of this Chapter insofar as such conformity may be accomplished without unreasonable hardship or substantial interference with the lawful intended use of such building or structure.
- (3) Dwelling unit; inside entrance. Rooms within a dwelling unit must have their principal entrance from inside the dwelling unit.
- (4) Grades; flood requirements. No building may be built, rented, or occupied which is located on a lot or other tract of land that does not comply with all lawful grade requirements for flood purposes.
- (5) Ground cover, surfacing. Front yard and side yard setback areas may be landscaped and maintained with low ground cover, except in the case of an approved off-street parking area. Asphaltic concrete, masonry, rock, gravel or other forms of artificial surfacing may not be used as a principal ground cover.
- (6) Manufactured Homes.
 - a. A manufactured home shall be located and installed according to the same standards for foundation system, permanent utility connections, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot.
 - b. Manufactured homes shall meet the following standards:
 1. The home shall have no less than nine hundred square feet of floor area;
 2. The home shall have no less than an eighteen-foot exterior width;
 3. The roof shall be pitched with a minimum vertical rise of two and one-half inches for each twelve inches of horizontal run;
 4. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction.
 5. The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and
 6. The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.

Mobile Home Parks shall be excluded from these guidelines. All manufactured (mobile) homes shall meet the standards set forth in the HUD - Manufactured Housing & Standards or Verification of HUD Standard Upgrades.

- (7) Multiple unit buildings; exits. Each dwelling unit in a multiple unit residence building, or in a multiple use building, shall have a front and rear exit, or an exit to a corridor on the same level which has a front and rear exit.
- (8) Public storage garages; location. No public garage used only for storing motor vehicles may have either a motor vehicle entrance or exit which is within two hundred (200) feet of an entrance or exit of any existing public or private school playground, public library, church, hospital, children's or old people's home, or a similar public or private institution. No public or private school playground, public library, church, hospital, children's or old people's home, or a similar public or

private institution may be built within two hundred (200) feet of either the motor vehicle entrance or exit to a public garage used for storing motor vehicles.

(9) Public street; abut; necessity. No building or structure shall be so constructed on a lot or tract of land which does not abut on a public street for a distance of at least twenty (20) feet.

(10) Railroad premises; tracks; docks. A railroad right-of-way may be used for railroad or spur tracks. Loading and unloading platforms or structures may be located on a railroad right-of-way only if the abutting property is in a C-3 or M Zone and no R zone is within three hundred (300) feet of the platform or structure on the same side of the right-of-way.

(11) Residence buildings; number. Except as provided in Article 9, no more than one (1) building used for residence purposes may be located on any lot.

(12) Residence; sleeping quarters. Permanent sleeping quarters may not be located or used in any building or structure in an R zone other than a main residence building.

(13) Residence; rear of lot. No building, designed to provide living or sleeping quarters, or both, may be located on an interior lot to the rear of the main building which is used for nonresidence purposes.

(14) Single family dwelling; walls. A single family dwelling shall be constructed as a single building with connecting walls. The plane surface of any connecting wall shall be at least eight (8) feet in length.

(15) Quonset; R zone. No quonset-type building or structure may be built or placed on any lot or tract of land in an R zone.

(16) Shipping containers.

- a. Shipping containers defined. For the purposes of this Chapter, a shipping container shall mean any container, which may otherwise be known as a container, freight container, ISO container, shipping container, high-cube container, box, C container or container van, designed to store and move materials and products across various modes of the Intermodal Freight Transportation System.
- b. General restrictions for shipping containers:
 1. A shipping container may be placed in the front yard setback only if being used for moving or relocating purposes.
 2. A shipping container may not be placed within the site triangle as defined in Section 25-2-104.1 of the Scottsbluff Municipal Code.
 3. A shipping container may not exceed 8 feet in width, 9 feet in height or 40 feet in length.
 4. A shipping container must be kept out of easements, public rights-of-way, and setbacks except as otherwise provided for in this Code.
 5. A shipping container may be placed on a lot without a permit if it is incidental to the permitted construction activities on the same lot. The shipping container must be removed at the completion of the construction project or expiration of the building permit.
- c. Residential zoning districts. No shipping container shall be allowed, except on a temporary basis for moving or actually used for construction activities, in all residential zoning districts. A shipping container may be allowed on a developed lot for a period of 30 days if used for moving or if used for construction activities as set forth in section (16) b.5. of this section. If additional time is required, the owner of the lot may apply for one 30 day permitted extension.
- d. Commercial zoning districts. Shipping containers may be used only for storage or shipping by the occupant of the lot in all commercial zoning districts only as an accessory building provided:

1. A valid permit for its use is issued by the City's Planning and Development Department.
 2. All shipping containers are located in areas not generally utilized by the customers of the commercial business and where shipping and receiving are conducted on the lot.
 3. All shipping containers are maintained and kept in good repair with no holes and rust and must be adequately secured to prevent entry by unauthorized people.
 4. All shipping containers must be placed on a level surface with a base of rock or concrete/pavement so as to prevent any settling of the shipping container while it is on the lot.
 5. Comply with the requirements of subparagraph e. of this section.
 6. Comply with all requirements for accessory building.
- e. In Ag, C-1, C-2 and C-3, M-1 and M-2 zoning districts, no shipping containers shall be allowed except as provided:
1. A building permit is required for a shipping container which will remain on the lot for a period greater than six months and used for onsite storage of material incidental to the permitted or accessory use of the lot. The building permit must be procured through the Planning and Development Department of the City.
 2. A shipping container located in a front or side yard must be painted so no signage or language is visible.
 3. A shipping container may not be connected to any City utility.
 4. A shipping container must be kept in good repair with no holes or rust.
 5. A shipping container must be placed on a level surface with a base of rock or concrete so as to prevent any settling of the shipping container while it is on the lot.

(Ord. 4072, 2012; Ord. 4191, 2016)

ARTICLE 4 FENCES, WALLS, HEDGES

Section

<u>25-4-1</u>	<u>Intent.</u>
<u>25-4-2</u>	<u>Classes.</u>
<u>25-4-3</u>	<u>Residence, business zones; dwellings; requirements.</u>
<u>25-4-4</u>	<u>Commercial, industrial zones; requirements.</u>
<u>25-4-5</u>	<u>Screen fence.</u>
<u>25-4-6</u>	<u>Perimeter fences; residence; generally.</u>
<u>25-4-7</u>	<u>Utility easements; fences on.</u>
<u>25-4-8</u>	<u>Height; measurement.</u>

25-4-1. Intent.

The regulations in this Article govern the type, location, and construction of fences, walls and hedges.
(Ord. 3639, 2000)

25-4-2. Classes.

Fences, walls and hedges are classified as:

- (1) masonry walls,
- (2) ornamental iron fences,
- (3) woven wire fences,
- (4) wood fences (more than fifty percent (50%) open),
- (5) solid fences (wood or metal less than fifty percent (50%) and
- (6) hedges.

The term “fence” is used in this Article as a generic term including all such classes, except where the context otherwise indicates. (Ord. 3639, 2000)

25-4-3. Residence, business zones; dwellings; requirements.

Fences in residence and business zones, and those enclosing a lot or tract of land used for dwelling purposes in any zone, must conform to the following requirements:

(1) Front. Fences constructed between the front building setback line and the front lot line may be of any class, but shall not exceed forty-two (42) inches in height, provided however, that fences of the Class Two (2) and Class Three (3) may exceed forty-two inches in height (42) but may not exceed forty-eight (48) inches in height.

(2) Side. Side yard fences back of the front building setback line may be of any class, but may not exceed seventy-two (72) inches in height.

(3) Rear. Rear yard fences may be of any class, but may not exceed seventy-two (72) inches in height.

(4) Corner lot. Notwithstanding any other provisions of this Article to the contrary, no fence exceeding 36 inches in height, measured from sidewalk grade, and if no sidewalk exists, from the top of curb, with a 50% open design may be built:

- a. on a corner lot, within a triangular area bounded on two sides by the intersecting street right-of-way lines and on the third side by a line connecting points on each right-of-way line which are 20 feet from their intersection, or
- b. on a corner lot adjoining an alley, within a triangular area bounded on two sides by the intersecting right-of-way lines of the alley and adjoining side street and on the third side by a line connecting points on each right-of-way line which are located at the distance from their intersection which is equal to the applicable side street setback requirement.

(5) On retaining wall. If a fence is constructed on the top of a retaining wall, the height of the fence is measured from the ground on the low side of the retaining wall, except that a Class (2), (3), (4) or (6) fence may be constructed on top of a retaining wall to a height not more than 30 inches above the ground measured on the high side of the retaining wall.

(6) Retaining wall design. A retaining wall must be adequately designed, constructed, and drained to withstand any lateral pressure to which it is subject.

(7) Obstruction of vision. Anything in this Article to the contrary notwithstanding, no fence, retaining wall, shrub, tree, or similar obstruction may be constructed or maintained if it will obstruct traffic vision.

(8) Dangerous; prohibited. No barbed wire, other sharp pointed, or electrically charged fence may be constructed or maintained.

(9) Dilapidated; dangerous; removal. The Development Services Director may order any dilapidated or dangerous fence removed.

(10) Utility substations. Anything in this Article to the contrary notwithstanding, fences

enclosing public or private utility substations in residential zones need conform only to the requirements set forth in section 25-4-3. (Ord. 3639, 2000; Ord. 4013 (2010))

25-4-4. Commercial, industrial zones; requirements.

Fences in commercial and industrial zones must conform to the following requirements:

(1) Front. A fence constructed between the front setback line and the front lot line may not exceed forty-two (42) inches in height, and must be of either Class Two (2), Three (3) or Six (6) construction. If the fence is of Class Two (2) or Three (3) construction such fence may not exceed forty-eight (48) inches in height. If it is of Class Six (6) construction such fence may not exceed forty-two inches in height. If no front setback line has been established, fences may be of any height or type of construction.

(2) Rear. If no rear yard setback has been established, fences may be of any height or type of construction.

(2) Barbed wire. Barbed wire or similar material may be used to construct that part of a fence, situated in a rear or side yard setback area of a tract of land in a C-3 or M zoning district, which is more than eighty-four (84) inches in height, providing that the Development Services Director determines that the barbed wire will not be detrimental to adjoining property.

(3) Electrically charged. An electrically charged fence may not be constructed or maintained.

(4) Repair; removal. Fences must be kept in repair. The Development Services Director may order any dilapidated or dangerous fence removed. (Ord. 4072, 2012)

25-4-5. Screen fence.

Where a lot or tract of land in a business, commercial, or industrial zone adjoins a lot or tract of land in a residence zone, the occupant of the business, commercial, or industrial lot or tract of land shall construct and maintain thereon adjacent to the common boundary line a suitable screen fence not less than seventy-two (72) inches high which the Development Services Director determines will not be detrimental to the adjoining property.

(1) Children's areas. A security fence may be constructed in any zone within a side or rear yard or a playground of a public or private school, nursery or day care facility, or a public park or playground. Such a fence shall be of an open design having a ratio of open portion to solid portion of not less than six to one (6:1), and shall not exceed eight (8) feet in height.

(2) Tennis courts; game areas. A fence may be constructed in any zone to enclose tennis courts and public game areas and a game area within a rear yard of a residential lot or tract of land. Such a fence shall be constructed of wire mesh which will admit not less than ninety percent (90%) of light as measured by a light meter. (Ord. 3639, 2000)

25-4-6. Perimeter fences; residence; generally.

Perimeter fences in residence zones shall conform to the requirements in sections 25-4-3 (1) to 25-4-3 (9), except as follows:

(1) Adjacent to streets. Segments of a perimeter fence which are constructed substantially parallel with and adjacent to the boundary lines of front and side streets, or either, shall be of a single uniform class and height, which latter shall not exceed seventy-two (72) inches; provided, any segment of a perimeter fence constructed pursuant to a special permit within the right-of-way of a

street, alley or other public way outside the corporate limits of the City shall be a Class Two (2), Three (3) or Four (4) fence.

(2) Side. Any segment of a perimeter fence which is constructed on, or adjacent to and substantially parallel with a boundary line between abutting blocks, lots or tracts of land shall conform to the requirements for side yard fences which are contained in this Article.

(3) Rear. Any segment of a perimeter fence which is constructed on, or adjacent to and substantially parallel with, the rear boundary line of any blocks, lots or tracts of land shall be of a single, uniform class and height and shall otherwise conform to the requirements for rear yard fences which are contained in this Article.

(4) Corner. Perimeter fences on corner lots, anything in sections 25-4-3 (1) to 25-4-3 (9), inclusive, to the contrary notwithstanding, shall conform to the requirements for fences on corner lots which are contained in this Article.

(5) Special permit. Perimeter fences are permitted on residence zones if a special permit therefor is issued by the Planning Commission, subject to conditions stated in Article 13 of this Chapter. (Ord. 3639, 2000)

25-4-7. Utility easements; fences on.

Anything in any other section of this Article to the contrary notwithstanding, any fence, or part thereof, erected within that part of any lot, block or other tract of land which is subject to an easement for the construction, maintenance, operation or replacement of any water, sanitary or storm sewer or gas line, or electric power, telephone or other utility poles, cables or lines shall be constructed of such material and so designed as to be readily removable, as determined by the Development Services Director, whenever necessary to enable the owner of the easement to enjoy the use thereof. Provided, permission of the Planning and Building Director to erect a fence on land that is subject to such an easement shall not bind, and shall be without prejudice to the rights of, owners of easements other than the City. Such fences shall be subject to removal by, or upon request of, the owner of the easement whenever necessary to enable the owner of the easement to enjoy the easement and, if removed or replaced, shall be removed or replaced at the expense of the owner of the premises. (Ord. 3639, 2000)

25-4-8. Height; measurement.

The height of a fence means, for purposes of this Article:

(1) in the case of a fence situated in a required building set back area which abuts a street, the height measured from the finished grade on the side nearest the street,

(2) in the case of a fence situated in other areas, the height measured from the finished grade of the immediately adjacent part of the area for which the fence constitutes a barrier. Provided, if a fence which is required by any provision of this Chapter is situated adjacent to a property line on one side of which the level of the finished grade is different from the level of the finished grade on the other side, the required height of the fence is the height measured from the higher level. (Ord. 3639, 2000)

ARTICLE 5

OFF-STREET PARKING/LOADING

Section

<u>25-5-1</u>	<u>Spaces; required; when; number.</u>
<u>25-5-2</u>	<u>Exceptions.</u>
<u>25-5-3</u>	<u>Increased use; moved building.</u>
<u>25-5-4</u>	<u>Location.</u>
<u>25-5-5</u>	<u>Setback area.</u>
<u>25-5-6</u>	<u>Stalls.</u>
<u>25-5-7</u>	<u>Back-out parking.</u>
<u>25-5-8</u>	<u>Public alley.</u>
<u>25-5-9</u>	<u>Surface.</u>
<u>25-5-10</u>	<u>Drainage.</u>
<u>25-5-11</u>	<u>Bumper curbs.</u>
<u>25-5-12</u>	<u>Walkways.</u>
<u>25-5-13</u>	<u>Fence, screen.</u>
<u>25-5-14</u>	<u>Lighting.</u>
<u>25-5-15</u>	<u>Certificate of occupancy; condition to issuance.</u>
<u>25-5-16</u>	<u>Uses.</u>
<u>25-5-17</u>	<u>Off-street loading facilities.</u>

25-5-1. Spaces; required; when; number.

Whenever a lot or tract of land shall be used for any of the following purposes, the owner or occupant shall provide and maintain off-street motor vehicle parking spaces as follows:

Land Use	Parking spaces
(1) Auction house	One space per 15 sq. ft. gross floor area.
(2) Bowling alley	Six spaces per lane.
(3) Church, mortuary, sports arena, theater	One space per four seats.
(4) Club (residential), hotel, rooming house	One space per two guest rooms.
(5) Dance hall, skating rink, lodge hall	One space per 100 sq. ft. area
(6) Fraternity, sorority, dormitory	One space per two occupants.
(7) General commercial use	One space per 500 sq. ft. gross floor area.
(8) Hospital	One space per patient bed.
(9) Motel	One space per guest room.
(10) Nursing home	One space per two patient beds.
(11) Offices	One space per 400 sq. ft. gross floor area.
(12) Residential uses except as provided in subsections (13), (14), (15), (16) and (17)	One space per dwelling unit.
(13) Residential - multi-dwelling unit, except as provided in subsections (14), (15), (16) and (17)	One and one half-spaces per family
(14) Residential - multi-family low income, elderly or handicapped occupants	One space per dwelling unit.
(15) Residential - condominium	One space per apartment, plus one guest parking space for each five apartments.
(16) Residential - townhouse	Two spaces per dwelling unit.

(except as provided in subsection (15))

(17) Residential-cluster houses	Two spaces per dwelling unit.
(18) Restaurant, bar	One space per three seats.
(19) Retail store, shopping center	One space per 250 sq. ft. gross floor area.
(20) Wholesale, warehousing, manufacturing	One space per 1000 sq. ft. gross floor area.

* Provided, in a C-1 Zone, no off-street parking spaces are required.

* A fractional requirement of one-half ($\frac{1}{2}$) or more requires an additional space; a fractional requirement less than one-half ($\frac{1}{2}$) does not.

25-5-2. Exceptions.

If the Planning Commission finds from evidence submitted to it that fewer parking stalls than this Article otherwise requires are needed for a lot or tract of land used for wholesale, warehousing, or manufacturing purposes, the Planning Commission may grant a permit to construct a facility that meets the actual need though less than generally required by this Article. No off-street parking spaces are required for dwelling units or residential uses in a Central Business District (C-1) zone. (Ord. 3639, 2000; Ord. 4152, 2015)

25-5-3. Increased use; moved building.

If a building or structure required to have an off-street parking facility is increased in size, either by increasing the number of units by fifteen percent (15%) or more, or by increasing the building size by fifteen percent (15%) or more, additional off-street parking spaces shall be provided. If a building or structure is moved from one lot or tract of land to another, parking facilities must be provided to the same extent required for the construction of a new building or structure. (Ord. 3639, 2000)

25-5-4. Location.

An off-street parking facility must be provided by the owner or person in possession of the premises which the facility is to serve, and shall be situated on the premises to be served by the facility. Provided, the Planning Commission may issue a special permit:

- (1) for two (2) or more lots or tracts of land to be served by one facility, or
- (2) for a facility to be developed or used on a lot or tract of land (although such development or use otherwise would be prohibited by this Chapter) for the purpose of serving an adjoining lot or tract of land in respect of which a special permit for a facility could be issued. (Ord. 3639, 2000)

25-5-5. Setback area.

A required off-street parking facility may not be placed in a front or side street building setback area, except as herein provided. A required off-street parking facility may be placed in a front street building setback area in Planned Business Center Zones. (Ord. 3639, 2000)

25-5-6. Stalls.

Off-street parking stalls, designed so that each stall can function independently of any other stall, shall meet the following minimum requirement:

Type	Width	Stall	Maneuvering Width
90 degree	10 feet	18 feet	26 feet

60 degree	10 feet	20 feet	20 feet
45 degree	9.5 feet	19 feet	14 feet
30 degree	9.5 feet	16 feet	12 feet (Ord. 3639, 2000)

25-5-7. Back-out parking.

Back-out parking onto a public street is permitted only for single and two-family dwellings. (Ord. 3639, 2000)

25-5-8. Public alley.

A public alley may be used as part of the maneuvering space requirement if the adjacent parking facilities are designed to utilize it as such. (Ord. 3639, 2000)

25-5-9. Surface.

All-weather surfacing is required on all off-street parking, loading, storage, sales, rental, and service areas for motor vehicles, including service stations and used car lots. (Ord. 3639, 2000)

25-5-10. Drainage.

Drainage, meeting specifications approved by the Planning Commission, shall be provided for an off-street parking facility. (Ord. 3639, 2000)

25-5-11. Bumper curbs.

A raised bumper curb, not less than six (6) inches high and not less than six (6) inches wide, shall be provided not less than thirty (30) inches inside and parallel to the property line of any lot or tract of land abutting a public street on an off-street parking facility now existing or hereafter established. (Ord. 3639, 2000)

25-5-12. Walkways.

If a walkway is provided on an off-street parking facility between a building and parking stalls, it must be at least thirty-six (36) inches in width. (Ord. 3639, 2000)

25-5-13. Fence, screen.

A solid fence or suitable screen, not less than forty-eight (48) inches in height, shall be constructed and maintained on an off-street parking facility parallel and adjacent to any line of the lot which is a common boundary line with any adjoining lot that is in an R Zone. (Ord. 3639, 2000)

25-5-14. Lighting.

If lighting is provided for an off-street parking facility, it shall be so constructed that the lights shine away from residential areas and public streets. (Ord. 3639, 2000)

25-5-15. Certificate of occupancy; condition to issuance.

A certificate of occupancy may not be issued for any building or structure until all off-street parking facility requirements have been met and are ready for use. (Ord. 3639, 2000)

25-5-16. Uses.

An off-street parking facility may be used only for parking automobiles; no sales activity, dead

storage, repair work, dismantling or servicing of any kind may be conducted on such a facility. Provided, if the number of off-street parking spaces provided on a lot or tract of land in an area zoned for commercial use exceeds the number of such spaces required in this Article, merchandise may be offered for sale and sold on such excess spaces, and a truck used to haul such merchandise may be parked on such spaces during hours when the merchandise is being offered for sale. (Ord. 3639, 2000)

25-5-17. Off-street loading facilities.

Each retail trade, retail or wholesale market, warehouse, supply house, wholesale and manufacturing business, hotel, hospital, laundry or dry cleaning establishments, or both, and any other place at which large amounts of goods are received or shipped, must have adequate off-street loading and unloading facilities. For each building having ten thousand (10,000) square feet of gross floor area, one off-street loading space at least ten (10) feet wide, fourteen (14) feet high, and forty (40) feet long, must be provided on the premises. One additional such off-street loading space must be provided for each additional forty thousand (40,000) square feet of gross floor area. No encroachment may be made on a public right-of-way. (Ord. 3639, 2000)

ARTICLE 6

SIGNS

Section

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<u>25-6-1.3</u>	<u>Calculating the Sign Area of a Sign.</u>
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<u>25-6-1.5</u>	<u>Off Premises Signs.</u>
<u>25-6-1.6</u>	<u>Sign Tables.</u>
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25-6-1. Intent.

The regulations in this Article govern the type, location, and subject matter of signs and similar advertising media. (Ord. 3639, 2000)

25-6-1.1 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined.

ANIMATION shall mean the movement of any object or light used in conjunction with a sign such as blinking, flashing, traveling, scrolling, or changing degree of intensity of any light movement other than burning continuously.

CHANGEABLE COPY SIGN shall mean any sign on which message copy can be changed through the use of attachable letters and numerals or by electronic switching of lamps, light emitting devices, or illuminated tubes. This includes public message displays or any sign which features automatic switching such as time and temperature signs.

COMMERCIAL SIGN shall mean any sign which serves to advertise and/or identify a product, service, or activity conducted on or off the premises on which the sign is located.

ELECTRIC SIGN shall mean any sign containing electrical wiring which is attached or intended to be attached to an electrical energy source, but not including signs illuminated by an exterior light source not an integral part of the sign.

ELECTRONIC CHANGEABLE COPY SIGN shall mean a sign containing a computer or digital software generated message or other automated or remote method of changing copy.

ERECTED shall mean attached, altered, built, constructed, reconstructed, enlarged, or moved and shall include the painting of wall signs.

FACADE shall mean that portion of any exterior elevation of a building extending vertically from the grade to the top parapet wall or eaves and horizontally across the building in one plane of elevation. A facade may extend above the roof line.

FADE shall mean a transition from one message to another by means of varying light intensity, where the first message gradually reduces intensity to the point of not being legible and/or gradually increases intensity to become legible.

FLASHING/BLINKING/PULSATING SIGN shall mean the interior or exterior of a sign which contains flashing lights or exhibits noticeable changes in light intensity with a basic on-off of the same light source or display pattern or which includes the illusion of intermittent or flashing light by means of animation, or an externally-mounted intermittent light source.

FREESTANDING SIGN shall mean any sign supported by structures or supports that are anchored in the ground and that are independent from any building or other structure.

HEIGHT OF A SIGN shall mean the distance between the lowest grade level within two feet of either side of a sign, and the highest part of the sign or its support; except that if the property was lower than the adjacent roadway, then the height of the sign is to be calculated from the street grade at a ninety degree angle from the sign.

ILLUMINATED SIGN shall mean any sign which is directly lighted by any electrical light source, internal or external, regardless of technology. This definition shall not include signs which are illuminated by street lights or other light sources owned by any public agency or light sources which are specifically operated for the purpose of lighting the area in which the sign is located rather than the sign itself.

MARQUEE (canopy or awning) shall mean a protective shelter or overhang which projects more than twenty-four inches from the face of a building that is otherwise permitted by code or ordinance.

MARQUEE SIGN shall mean a sign attached to the face or on top or below a marquee.

MOBILE SIGN shall mean a sign designed and constructed to be transported by its own wheels. When placed, a mobile sign must be supported by at least four integral metal supports which raise the wheels off the ground. Such sign shall not exceed ten feet in height.

MONUMENT SIGN shall mean any freestanding sign in which the top edge of the sign is six feet or less above grade.

MURAL shall mean an artistic image or design painted or affixed to the exterior surface of a structure that does not contain a commercial text message, graphic or image.

NIT shall mean a unit of luminance equal to one candela (one candle) per square meter.

NONCOMMERCIAL SIGN shall mean any sign that is not a commercial sign.

NONSTRUCTURAL TRIM shall mean the molding, battens, caps, nailing strips, latticing, cutouts, or ladders and walkways which are attached to the sign structure.

OFF-PREMISES SIGN shall mean any sign which serves to advertise a product, service, or activity not conducted on the premises on which the sign is located or within 300 lineal feet thereof.

ON-PREMISES SIGN shall mean any sign which serves to advertise and/or identify a product, service, or activity conducted on the premises on which the sign is located, or identifies said premises or a use thereof.

PERSON shall mean and include any person, firm, partnership, association, corporation, company,

or organization of any kind.

POLE SIGN shall mean any freestanding sign in which the top edge of the sign is more than ten feet above grade.

PROJECTING SIGN shall mean any sign other than a wall sign which is attached to and projects at an angle of not less than forty-five degrees from a structure or building face.

PROJECTION shall mean the distance by which a sign extends beyond a building or structure.

REAL ESTATE SIGN shall mean any sign which identifies an offer to sell, rent, or lease of the premises on which the sign is located.

REVEAL shall mean a message transition where portions of the message appear and/or disappear sequentially.

ROOF LINE shall mean the uppermost exterior surface of the roof of a building.

ROOF SIGN shall mean any sign mounted on the main roof portion of a building or on the top most edge of a parapet wall of a building; and which is wholly or partially supported by such building. For the purpose of this chapter, signs mounted on mansard facades, penthouse eaves, facades and architectural projections such as canopies or marquees shall not be considered to be roof signs. Signs mounted on an ornamental attachment not used for shelter or protection of persons or property, such as cupolas, shall be considered roof signs.

SCROLL or TRAVEL shall mean a message transition where the message that is leaving or appearing appears to move vertically or horizontally across the display surface.

SIGN shall mean any structure, fixture, graphics, illustration, statue, or other device visible from off the premises designed or intended to advertise, to identify, to attract attention to, or to convey information regarding any goods, product, service, business, location, institution, activity, person, solicitation, issue, or campaign, with the exception of merchandise window displays, national, state or other Nebraska governmental subdivision flags, and sculpture. For purposes of removal, sign shall also include any sign structure.

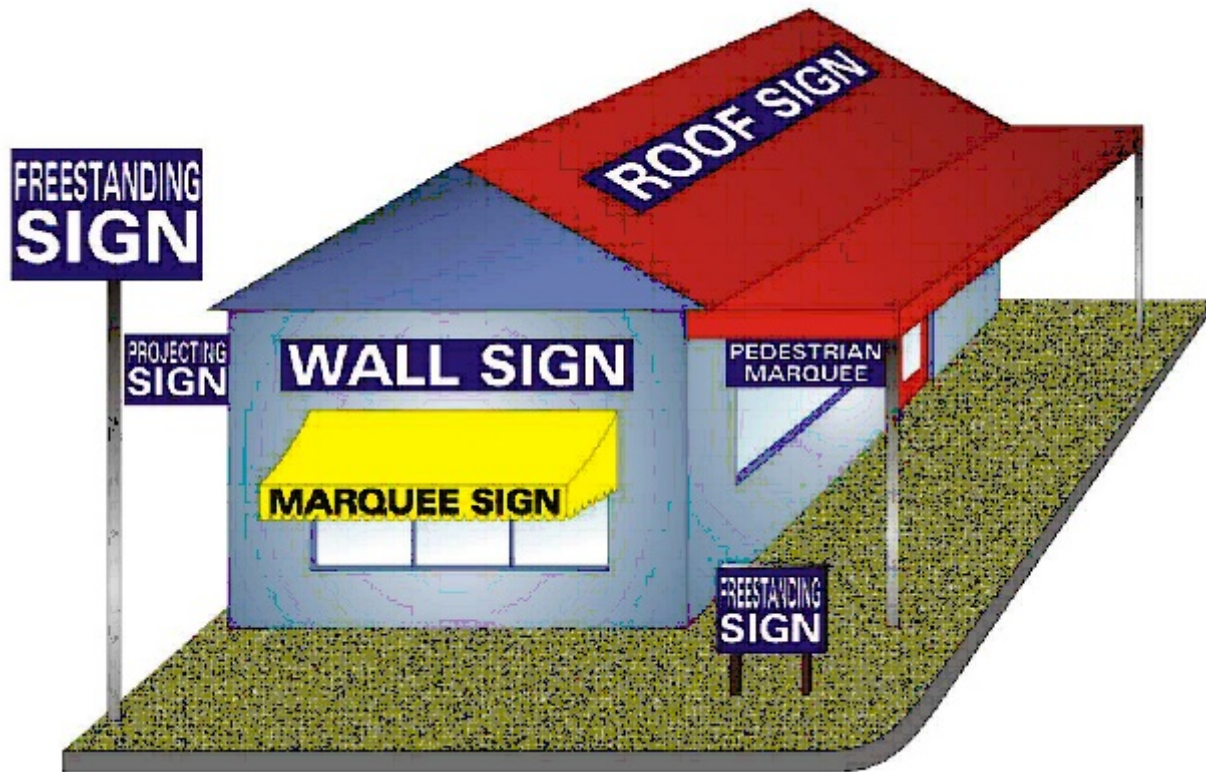
SIGN STRUCTURE shall mean any structure which is designed or used to support any sign as defined in this chapter. A sign structure may be a single pole and may or may not be an integral part of the building.

TEMPORARY SIGN shall mean any outdoor sign or device including but not limited to banners, pennants, flags, or advertising display constructed of cloth, canvas, light fabric, cardboard, or other light materials, with or without frames, intended to be displayed for a limited period of time and which is not permanently affixed; provided, that temporary signs shall not include mobile signs.

WALL SIGN shall mean any sign painted on or attached to the wall or facade of a building with the display surface parallel to or at an angle to which it is attached, and which projects no more than twenty-four inches from the wall surface. No wall sign shall extend vertically or horizontally beyond the building facade from which the sign is attached. A wall sign may project into a right-of-way. A wall sign may be located at any height on a parapet or facade. A wall sign may be mounted on a mansard facade or penthouse facade.

WINDOW SIGN shall mean a sign installed inside a window which can be viewed from outside the premises and is six feet or less from the window or is located within a window display area formed by walls or doors that block the view into the main building.

25-6-1.2 General Sign Types.
Figure 1



25-6-1.3 Calculating the Sign Area of a Sign.

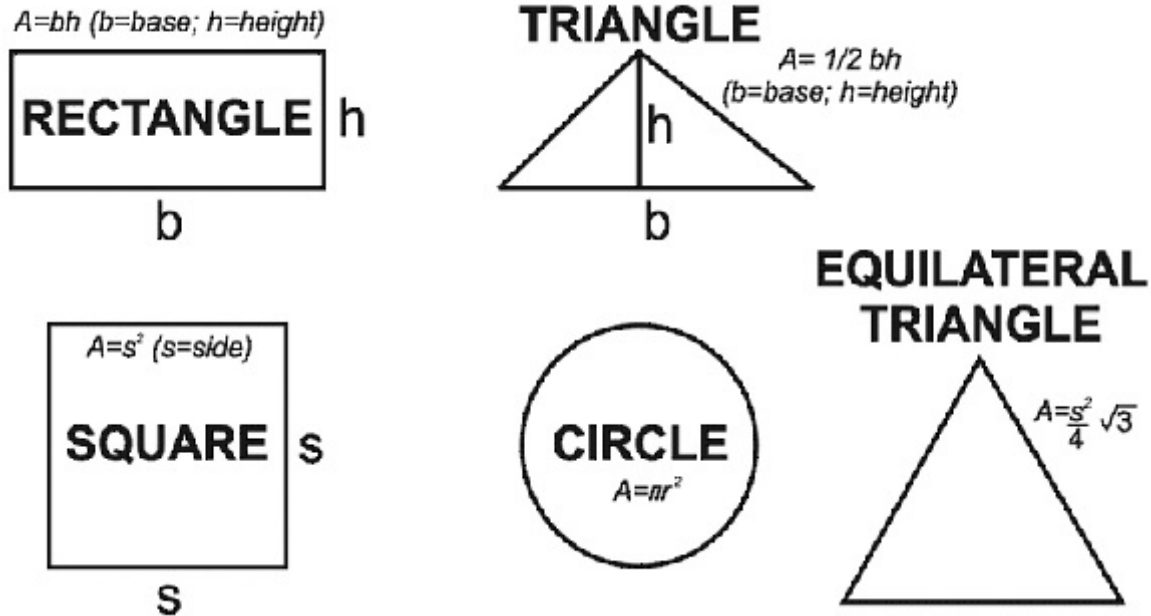
The sign area of a double-faced sign or two-sided or three-sided V-type sign not exceeding an angle of sixty degrees shall be calculated on one face of the sign only. The sign area of a four-sided sign is to be calculated as two signs, and the sign area of a triangular, three-sided sign shall be calculated on its largest face.

(a) Freestanding Sign. The sign area of a freestanding sign shall be calculated by the area defined by the constructed or fabricated cabinet, panel or frame. If the sign consists of more than one section or module, all areas will be totaled. If the sign does not have a defined cabinet, panel or frame, or the cabinet, panel or frame is of an irregular shape, the sign area shall be calculated the same as a wall sign

(b) Wall Sign. The sign area of a wall sign shall be calculated by using up to a simple eight-sided geometric figure around the advertising message and shall include any framing or border.

(c) Marquee Sign. The sign area of a marquee sign shall be counted toward the total allowable wall sign area of the parallel wall face to which the marquee is attached; the sign area of a marquee sign attached perpendicular to the wall shall be counted toward the allowed sign area of a projecting sign.

Simple Geometric Figures - Figure 2



Calculating the area of a wall sign - Examples - Figure 3

Sign with a cabinet or panel - calculate the shaded area.

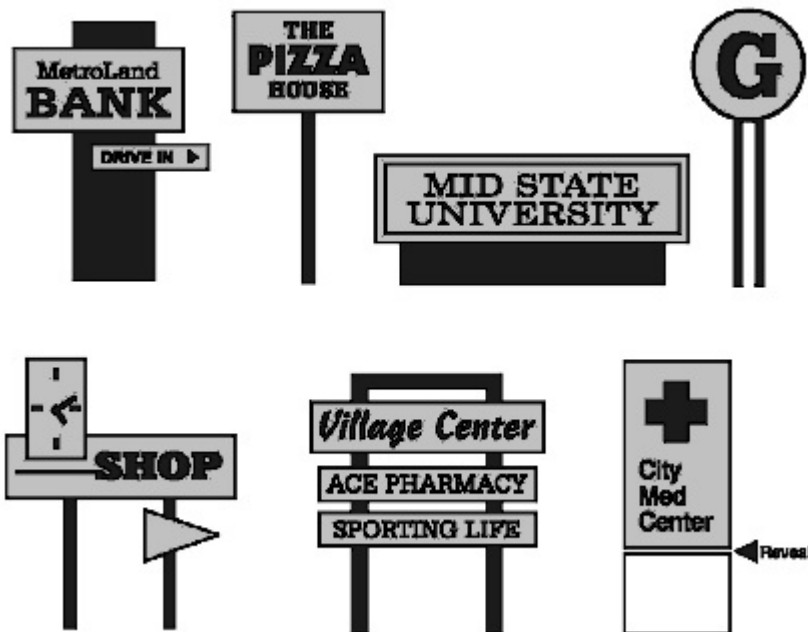
Sign made up of individual letters mounted on a wall - calculate the area around each word.

Sign painted on a wall - calculate the painted area including the painted background.



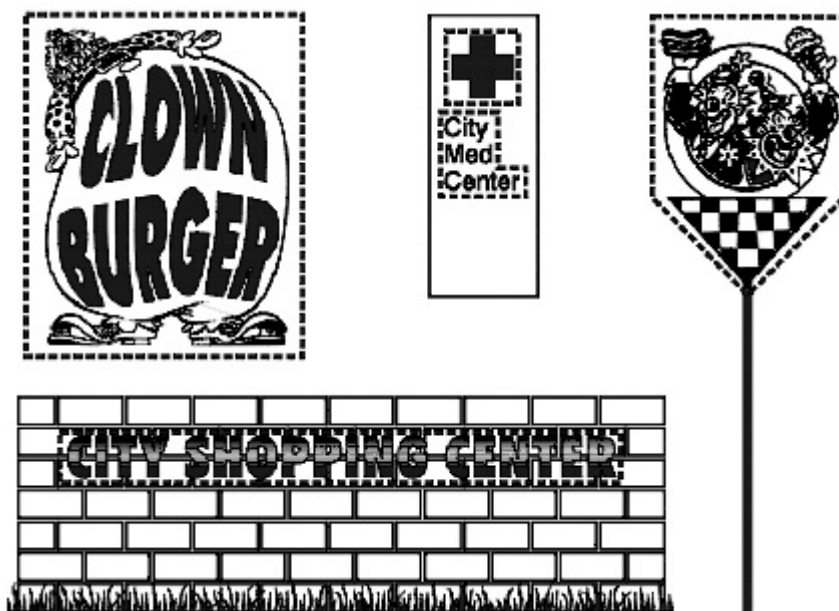
Calculating the area of a sign constructed with panels or cabinets - Examples - Figure 4

The sum of the shaded area represents sign area.



Calculating the area of a sign without a defined panel or cabinet or signs with an irregular shape - Examples - Figure 5

The sign area is calculated by using up to a simple eight-sided geometric figure around the advertising message and includes any frame or border. The dotted line represents the calculated sign area.



Except as otherwise provided in this chapter or in any other applicable ordinance or regulation, no sign or part thereof shall be erected or maintained in any zoning district except in conformance with these General Provisions. The General Provisions apply to both on-premises and off-premises signs.

(a) Location, Height, Area, and Other General Requirements.

- (1) No sign shall be erected or maintained in a required yard except as otherwise provided in this chapter, or encroach upon or overhang any adjacent property or public right-of-way.
- (2) No sign shall be erected upon or against a roof or on top of the parapet of a building.
- (3) No sign shall exceed the maximum height permitted for buildings in the zoning district in which the sign is located.
- (4) Every sign shall be permanently attached to the ground, or to a building or structure which is permanently attached to the ground, except for mobile signs and temporary signs.
- (5) No sign shall be painted on or attached to rocks, trees, or any other natural object.
- (6) No sign shall be erected, placed, or maintained in a location that violates the site obstruction requirements for street intersections or entrances or exits from private property.
- (7) Every freestanding sign permitted on a "per frontage" basis shall be allocated to and be located proximate to the specific frontage which would authorize such sign.
- (8) The required space between the location of any sign and an abutting residential district shall be as follows:
 - (i) 50 feet if non-illuminated,
 - (ii) 100 feet if illuminated.
- (9) No sign shall move, rotate, revolve, or simulate animation by means of spinning, fluttering, or reflective devices or lighting, except a sign may rotate or revolve at a rate not to exceed six revolutions per minute.
- (10) All freestanding signs must be spaced a minimum of 50 feet apart.
- (11) No sign shall be erected, placed or maintained in any location in violation of the zoning regulations of the City of Scottsbluff.
- (12) No person shall place, construct, or erect any sign which, by reason of its size, location, movement, content, coloring, or manner of illumination, may be confused with or construed as a traffic control sign, signal, or device, or the light of an emergency or road equipment vehicle.
- (13) No person shall place, construct or erect any sign which hides from view any traffic control sign or signal or device.

(b) Freestanding Signs. See Section 25-2-110.

(c) Wall Signs. Wall signs are allowed in the C-1, C-2, C-3, M-1, M-2 and PBC zoning districts, subject to the following restrictions:

- (1) The wall sign shall not exceed 25 square feet in sign area per architectural elevation nor be located on the side of the building abutting a residential district or facing a local or collector street when the land across the street is zoned residential.

- (2) In all other allowed zoning districts, the wall sign shall have a maximum sign area of 500 square feet.
- (3) No wall sign or wall sign structure shall project into the right-of-way.

Table (1) - Projection of Wall Signs

Clearance	Maximum Projections
Less than 7'6" above grade	2 ½ inches
Over 7'6" above grade	24 inches

(d) Projecting Signs. Projecting signs are allowed in the C-1, C-2, C-3, PBC, —1 and M-2 zoning districts, subject to the following restrictions:

- (1) The projecting sign shall be in lieu of one freestanding sign.
- (2) The projecting sign shall have a minimum ground clearance of eight feet above the walk or grade below.
- (3) The projecting sign shall not exceed 100 square feet in sign area.
- (4) In the C-1, C-2, C-3, PBC, —1 and M-2 zoning districts, the projecting sign shall not exceed 25 square feet in sign area and such sign shall not be located on the side of the building abutting a residential district or facing a local or collector street when the land across the street is zoned residential.

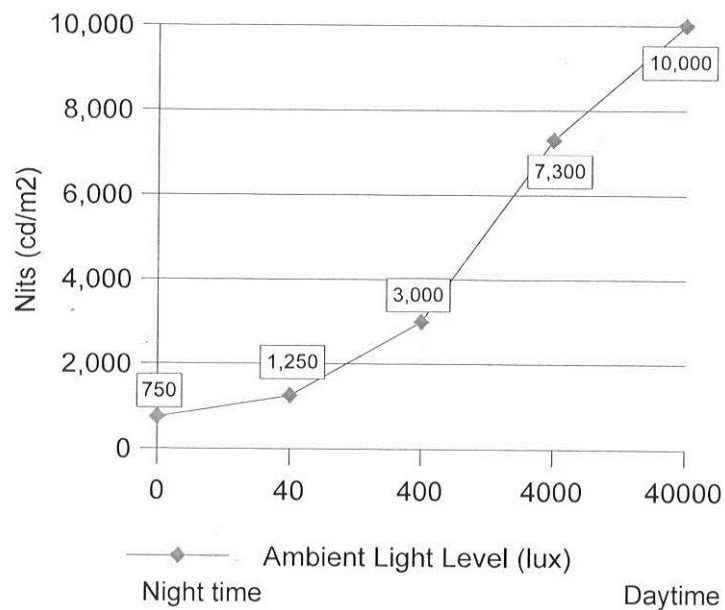
(e) Marquee Signs. Marquee Signs are allowed in all C, PBC and M zoning districts, subject to the following restrictions:

- (1) The marquee sign shall be designed so that sign support braces are not visible from street level.
- (2) The marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater.

(f) Electronic Changeable Copy Signs are allowed in all R-1, R-2, R-3, R-4, C-1, C-2, C-3, PBC, O&P, M-1 and M-2 zoning districts, subject to the following restrictions:

- (1) The sign area displaying electronic changeable messages shall not exceed 100 square feet of sign area and such sign area shall be included as a part of the total permitted signage for the premises on which it is located.
- (2) No message on an Electronic Changeable Copy Sign shall be animated, except in the C, PBC, O&P and M zoning districts.
- (3) Transition between messages are permitted but such transitions may only fade, scroll, travel, or reveal, and the transition shall not exceed a duration of one second.
- (4) Illuminated electronic changeable copy signs shall be equipped with a sensor and/or timer or other device approved by the Director of Development Services to automatically adjust the day/night light intensity levels in accordance with Figure 6 below.
- (5) The sign in R-1, R-1a, R-1b, R-4 and R-6 zones shall only be allowed to operate and display for a church or public school or private school and shall not be operated or displayed between 11:00 p.m. and 6:00 a.m. daily.

Figure 6 - Maximum Sign Brightness with Varying Ambient Light



(g) Illumination.

- (1) In all nonresidential districts, signs may be illuminated, except that the surface illumination of any sign shall not exceed the levels shown in Figure 6 below for different conditions of ambient light.
- (2) Lighted vending machines are not permitted in view from off the premises in any residential zoning district.

(h) Mobile Signs. Mobile signs identifying special sales and openings shall be permitted on the premises of a commercial establishment for no more than sixty days in any calendar year in districts where commercial establishments are permitted subject to the following restrictions:

- (1) The mobile sign shall not exceed sixty square feet of sign area.

25-6-1.5 Off-Premises Signs.

1. Off-premises signs are permitted in the PBC, O&P, C1, C2, C3 and M zoning districts. Provided, a copy of a signed lease or other verification that the party has permission of the owner of the land upon which the off-premises sign shall be located shall be provided to the Development Services Department.

2. The minimum distance between an off-premises sign and a public elementary or public high school, private school having a curriculum equivalent to a public elementary or public high school, community college, park, or cemetery shall be 600 feet measured in all directions regardless of the zoning jurisdiction in which the public elementary or high school, private school having a curriculum equivalent to a public elementary or public high school, community college, park, or cemetery is located.

25-6-1.6 Sign tables.

<u>Zoning Districts</u>	<u>Type of Sign</u>	<u>Number of Signs</u>	<u>Size Allowed</u>	<u>Height</u>	<u>Code Reference</u>
R-1, R-1a, R-1b R-4, R-6, AR	Name Plate	1	1 sq. ft		25-6-2(1)
	Name Plate	1	2 sq. ft		25-6-2(2)
	Name Plate	1	4 sq. ft		25-6-2(3)
	Freestanding	1	40 sq. ft	4 feet	25-6-3 & 25-6-10
	Subdivision ID	2	35 sq. ft	3 feet	25-6-9
	Real Estate	1	4 sq. ft		25-6-12, 25-6-13
	“For Sale” “Sold”				25-6-14 & 25-6-15
	Political		8 sq. ft	4 feet	25-6-17 - 25-6-24
	Electronic Church	1	40 sq. ft		25-6-1.8
	Freestanding	2	30 sq. ft		25-6-4
A	Directional			5 feet	25-6-11
	Political		8 sq. ft	4 feet	25-6-17, 25-6-24
O-P	Wall	1	4 sq. ft or 5% of wall surface		25-6-6
	Freestanding	1	100 sq. ft	8 feet	
	Directional			5 feet	25-6-11
	Political		8 sq. ft	4 feet	25-6-17 - 25-6-24
	Electronic		100 sq. ft		25-6-1.4(f)
PBC	Attached	1 per business			25-6-6
	Projecting	**			
	Detached	2+	250 sq. ft		25-6-6 & 25-6-8
	Directional			5 feet	25-6-11
	Freestanding		100 sq. ft.		
	Political		8 sq. ft	4 feet	25-6-17 - 25-6-24
	Electronic		100 sq. ft		25-6-1.4(f)
C-1, C-2	Attached				25-6-6
	Projecting	**			
	Detached				25-6-6 & 25-6-8
	Directional			5 feet	25-6-11
	Freestanding		100 sq. ft.		
	Political		8 sq. ft	4 feet	25-6-17 - 25-6-24
	Temporary				
	Detached 2/year		20 sq. ft		25-6-8.1
	Electronic		100 sq. ft		25-6-1.4(f)
C-3	Attached				25-6-6
	Projecting	**			
	Detached				25-6-6

M-1, M-2	Directional			5 feet	25-6-11
	Freestanding		100 sq. ft.		
	Political		8 sq. ft	4 feet	25-6-17 - 25-6-24
	Temporary				
	Detached	2/year	20 sq. ft		25-6-8.1
	Electronic		100 sq. ft		25-6-1.4(f)
	Billboards		288 sq. ft	45 feet	25-6-16.2
				above road	
	Attached				25-6-6
	Projecting	**			
	Detached				25-6-6
	Directional			5 feet	25-6-11
	Freestanding		100 sq. ft.		
	Political		8 sq. ft	4 feet	25-6-17 - 25-6-24
	Temporary				
	Detached	2/year	20 sq. ft		25-6-8.1
	Electronic		100 sq. ft		25-6-1.4(f)
	Billboards		288 sq. ft	45 feet	25-6-16.2
				above road	

- (1) **100 sq. feet unless abutting residential zone, then 25 sq. ft
- (2) Digital Billboards will be regulated according to Article 25-6-16.3 and 25-6-16.4 and not as set forth above on this sign table.”
- (3) In such zones no attached or extended sign may, in whole or in part, project above or be higher than the roof line or a parapet. Signs may disclose the name of the building and the nature of the occupancy; provided, in a PBC Zone not more than one (1) sign visible from a public street may be mounted on a building for each business using the building, or a part of it. In a PBC Zone, detached signs not exceeding two hundred fifty (250) square feet in area each and which only identify the planned business center or businesses within the center, or both, may be erected or maintained; provided, if the planned business center abuts a particular street for a distance in excess of five hundred (500) feet, one (1) additional detached sign per each additional two hundred fifty (250) feet, or part thereof, of such distance may be erected or maintained. In any C-3 Zone, any billboard shall be located not less than one hundred fifty (150) feet from a residence building.

Billboards			
Zone	Attached	Extending	Detached
PBC	X	X	X
C-1	X	X	X
C-2	X	X	X
C-3	X	X	X

25-6-1.7 Churches, Schools, and Community Playhouses.

1. On premises in a residential zone on which is situated a building occupied or used as a church,

public community center, library, hospital, lodge, club, school (except nursery school), other educational or charitable institution or fire station, or on premises in such a zone which are used by the city as a park or campground, there may be erected a freestanding sign, not exceeding 4 feet in height above the ground and 40 square feet in area, on which is displayed the name and address of the occupant or user of the premises and its meeting schedule, if any, and which is illuminated by non-flashing and non-blinking lighting which, as determined by the Development Services Director, does not shine directly upon any other premises and does not constitute a traffic hazard.

2. A permitted freestanding sign fronting on an arterial street may include electronic changeable copy if it meets the following conditions and requirements:

- (a) Total area of the electronic changeable copy sign shall not exceed 75% of the total allowed freestanding sign area;
- (b) The electronic changeable copy sign message shall hold for at least three seconds and transition to a new message shall not exceed a duration of one second.

25-6-1.8 Murals.

In all zoning districts, murals, exclusive of any sign area, painted on walls of a building, fence, or similar structure shall be permitted; provided that a permit therefor is obtained from the Development Services Director and that such mural shall not interfere with traffic or present any other hazard or detriment to the public health, safety or general welfare. The murals shall be maintained properly, to include correcting any peeling or fading of paint, and to repair the mural if maintenance is required.

25-6-1.9 Nonresidential; Permanent Window Signs.

In all nonresidential zoning districts, permanent window signs shall be permitted; provided that such signing does not cover more than 25% of the area of any window or door.

25-6-2.0 Maintenance of Signs.

All signs shall be continuously maintained in a state of security, safety and repair, and shall be painted at reasonable intervals. If any sign is found not to be so maintained or is in need of painting or repair, it shall be the duty of the owner and occupant of premises to repair, paint or remove the signs within ten days after receiving written notice to do so from the Director of Development Services. If the sign is not so repaired, painted or removed within such time, the Director of Development Services shall have the power to cause the sign to be removed at the expense of the owner of the premises.

25-6-2. R Zone.

In a residential zone, signs or name plates visible from the exterior of the building or structure may be displayed as follows:

- (1) one (1) nameplate not exceeding one (1) square foot in area, designating the name of the occupants, may be displayed on a single family dwelling or a duplex,
- (2) one (1) nameplate not exceeding two (2) square feet in area, designating the name of the building, may be displayed on an apartment or boarding house, or
- (3) one (1) nameplate not exceeding four (4) square feet in area, designating the name, the occupants, and a meeting schedule (if any), may be displayed on any building not used primarily for residence purposes. All signs or name plates in such a zone must be placed flat against a building and displayed without illumination, except as otherwise provided in section 25-6-3. (Ord. 3639, 2000)

25-6-3. Public, semipublic facilities.

On premises in a residential zone on which is situated a building lawfully occupied or used as a church, public community center, library, hospital, lodge, club, school (except nursery school), other educational or charitable institution or fire station, or on premises in such a zone which are used by the City as a park or campground, there may be erected a freestanding sign, not exceeding four (4) feet in height above the ground and forty (40) square feet in area, on which is displayed the name and address of the occupant or user of the premises and its meeting schedule, if any, and which is illuminated by non-flashing and non-blinking lighting which, as determined by the Development Services Director, does not shine directly upon any other premises and does not constitute a traffic hazard. (Ord. 3639, 2000)

25-6-4. A Zone.

In an A Zone, not more than two (2) signs, which do not exceed a total area of thirty (30) square feet each, may be displayed to show the name of the owner, or the name of the tract of land, or both, or the products produced on the tract of land. (Ord. 3639, 2000)

25-6-5. O-P Zone.

In an O-P Zone, the following signs designating the name of the building or the name of one or more occupants of the building, or both, may be erected:

(1) Signage not to exceed more than 5% of the total wall area or 4 square feet, whatever is greater, to be located on the street frontage. The sign may not, in whole or in part, project above or be higher than the roof line or parapet. Signs may disclose the name of the building, occupants, and the nature of the occupancy.

(2) One (1) freestanding sign not exceeding one hundred (100) square feet in area and eight (8) feet in height above grade. Such signs may be illuminated. (Ord. 3639, 2000; Ord. 4013, 2010)

25-6-6. PBC, C-1, C-2, C-3 Zones.

Repealed. (Ord. 3639, 2000; Ord. 4148)

25-6-7. M-1, M-2 Zones.

In an M-1 or M-2 Zone a billboard or other signs may be erected. In any M-1 Zone, no attached or extended sign may, in whole or in part, project above or be higher than roof line or a parapet. (Ord. 3639, 2000)

25-6-8. Setbacks; generally.

Detached signs not exceeding in height the building height limitation of the zone in which the sign is located may be erected in a front setback area in any zone except a residential or O-P Zone; provided, signs which conform to the requirements in section 25-6-10 may be erected in a front setback area in a residential zone. Detached signs shall not:

- (1) obstruct or impair pedestrian or motorist vision,
- (2) obstruct neighboring signs or adjoining lots or tracts of land, or
- (3) be erected within a triangular area bounded by the property lines of the lot or tract abutting two intersecting streets and a line connecting a point on each such property line that is

twenty (20) feet from the point of intersection of such lot lines; provided, extending or freestanding signs the lowest part of which is not less than ten (10) feet above the finish grade may be erected in such triangle area in any zone except a residential or O-P Zone. (Ord. 3639, 2000)

25-6-8.1. Temporary detached signs; where allowed; permit required; conditions.

(A) Upon obtaining a permit from the City Planner, a Temporary Detached Sign may be erected in a C-1, C-2, C-3, M-1 or M-2 zone, subject to the following provisions:

1. Such sign shall not exceed twenty square feet in area;
2. Such signs are prohibited in any public right-of-way, including streets, sidewalks, parks and public facilities.
3. Such signs shall comply with the provisions of Section 25-6-8.
4. The applicant shall pay the fee specified in Chapter 6, Article 6.
5. The permit shall be conspicuously displayed on the premises.

(B) The number of temporary detached signs on a lot is subject to these limitations:

1. A permit may be issued for two temporary detached signs for a period of one year.
2. An additional thirty-day permit may be issued for not to exceed three additional temporary detached signs. No more than two such permits may be issued for a lot in a calendar year.

(C) No permit shall be required for the following temporary detached signs:

1. Political signs.
2. Signs advertising for an occasional sale of personal property to be conducted at the home of the seller, commonly called a “garage sale.”
3. Signs on property occupied by a church.
4. “For Sale,” “Sold,” and advertising construction signs as described elsewhere in this Chapter.
5. Signs advertising goods or services offered by a non-profit organization. (Ord. 3831, 2005)

25-6-9. Residence subdivision identification; permit.

Anything in section 25-6-8 to the contrary notwithstanding, the Planning Commission may grant a special permit for the erection and maintenance of one (1) or two (2) subdivision identification signs at each collector or arterial street entrance to a subdivision in a residence zone. The area of such a sign or, if there be two signs, the aggregate area of the two (2) signs at a particular entrance shall not exceed thirty-five (35) square feet; provided, further, no such sign(s) exceeding thirty-six (36) inches in height may be erected within a triangular area bounded on two (2) sides by the intersecting right-of-way lines of the two (2) abutting streets and on the third side by a line connecting a point on each such boundary line which is twenty (20) feet from the point of such intersection. The sign(s) shall identify the subdivision by name or symbol only, and may have indirect illumination. The sign shall be maintained in good condition by the owner at all times. (Ord. 3639, 2000)

25-6-10. R Zones.

Freestanding signs which conform to the requirements prescribed in section 25-6-3 may be erected as herein provided in a setback area of premises in a residential zone which are of a type described in that section. Such a sign, if erected in a front setback area of a lot or tract of land which is not a corner lot or tract, shall be erected not closer to the front property line than one-half (½) of the distance from the property line to the front setback line or, if the lot or tract of land is a corner lot or

tract, shall not be erected within a triangular area bounded by the property lines of the lot or tract abutting the two intersecting streets and a line connecting a point on each such property line that is thirty (30) feet from the point of intersection of such lot lines. (Ord. 3639, 2000)

25-6-11. Directional signs.

Directional signs not exceeding five (5) feet in height above finish grade may be erected in a front yard setback area in any zone except a residential zone; provided, such signs shall also conform to the requirements in subsections (1), (2) and (3) of section 25-6-8.

25-6-12. “For Sale,” “Sold” signs; R Zones.

A single “For Sale” sign may be erected upon a single lot or tract being advertised for sale in a residence zone, and a single “Sold” sign may be erected upon such a lot or tract after sale. Such sign shall not exceed four square feet in area. The Planning Commission may grant a special permit for the erection of a temporary sign or billboard to advertise the sale of lots or tracts of land in a new residence subdivision, subject to the following conditions:

(1) the sign or billboard may contain advertising disclosing the name of the developer, the name of a real estate agent selling lots or tracts of land in the subdivision, or the services provided by the developer, but may not contain advertising not pertaining to the sale of lots or tracts of land in the subdivision,

(2) a sign or billboard erected or maintained in a unit of a subdivision may not contain advertising pertaining to another unit of the same subdivision,

(3) the Planning Commission may not authorize the erection of a sign or billboard which the Planning Commission finds will interfere with or create a hazard to traffic,

(4) the Planning Commission may fix the size of the sign or billboard having due regard for the distance it is situated from the street, but in no event may the sign or billboard exceed one hundred twenty (120) square feet in area, and

(5) the sign or billboard may not be illuminated. Such a permit may not be granted for more than one (1) year, but may be renewed by the Planning Commission for periods not exceeding one year each on written application made at least thirty (30) days before the permitted period expires. (Ord. 3639, 2000)

25-6-13. Advertising construction, financing; permit.

A sign or billboard advertising the construction, and a sign advertising the financing of construction, of a new building or structure may be erected upon the premises on which the building or structure is to be constructed for not to exceed one year after the date of the building permit; provided, the Planning Commission may grant a special permit to maintain such a sign for further periods not exceeding one year each on written application made at least thirty (30) days before the permitted period expires. In any area zoned for residential use the sign or billboard shall not exceed thirty-six (36) square feet in area. The sign or billboard may state the name of the owner of the premises, the services provided by the owner, and the names of contractors, subcontractors, architects, engineers, and the institution or person by whom construction is being financed in whole or in part, but may not contain advertising or information not pertaining to the premises. (Ord. 3639, 2000)

25-6-14. Remodeling, repairing; if remodeling or repair permit required.

In case of remodeling or repair of a building or structure for which a permit is required, a sign

advertising the remodeling or repair, and a sign advertising the financing of remodeling or repair, of the building or structure may be erected upon the premises on which the building or structure is situated for not to exceed twenty-one (21) days after the date of the permit; provided, the Development Services Director may grant a permit to maintain such sign(s) for a further period not exceeding thirty (30) days on written application made not less than five (5) days before the permitted period expires. In any area zoned for residential use the sign(s) shall not exceed sixteen (16) square feet in area each. The sign(s) may include names of contractors, subcontractors, architects and engineers, and of the institution or person by whom the remodeling or repair is being financed in whole or in part, but may not contain advertising or information not pertaining to the premises. (Ord. 3639, 2000)

25-6-15. If remodeling or repair permit not required.

If no permit is required for remodeling or repair work being done on a building or structure, a sign or signs of the type and on the premises referred to in section 25-6-14 may be erected and maintained upon compliance with the requirements of this section. An application for a temporary permit for such sign(s) shall be made to the Development Services Director in such form as the Director may prescribe, but no fee shall be payable for the permit. Such a permit shall be effective for a period of twenty-one (21) days; provided, the Director may grant an extension of the permit for a further period not exceeding thirty (30) days on written application made not less than five (5) days before the permit expires. (Ord. 3639, 2000)

25-6-16. Signs; where required by law.

Signs that are required by law may be erected without securing a special permit. (Ord. 3639, 2000)

25-6-16.1. Billboards: Where permitted.

1. Billboards are allowed only in the zones indicated in Chapter 25, Article 3 of this code, and within such zones, only in the following locations:

- a. On the east or north side of U.S. Highway 26, between East Overland Drive and State Highway 71.
- b. On either side of McClellan Expressway (East Bypass Highway 71) north of its intersection with the Burlington Northern Railroad right-of-way.
- c. On Avenue I Street north of U.S. Highway 26 to East 42nd street on both sides of the street.
- d. On Avenue I between U.S. Highway 26 and East 42nd street on both sides of the street.
- e. On U.S. Highway 26 between Avenue I Street and going West to 42nd Street (County Road J) on both sides of the highway.
- f. Notwithstanding subsections a through e of this section, if the owner of a billboard located in a place where billboards are not allowed by this section removes the billboard, that owner may, subject to the other regulations applicable to billboards, install a billboard in any of the following locations:
 1. In any location permitted in subsections a through e of this section.
 2. On the west side of U.S. Highway 26, south of East Overland Drive extended east.
 3. On the east side of McClellan Expressway (East Bypass Highway 71) between the North Platte River and the intersection with the Burlington Northern Railroad right-of-way.

2. Billboards erected near Highway 26 or Highway 71 must be located within one hundred feet of the right-of-way of such highways.
3. No billboard may be erected closer than three hundred feet to any “R” zone.

25-6-16.2. Billboards, other regulations.

1. The top of a billboard may not be more than forty-five feet above the roadway grade level.
2. No billboard may exceed two hundred eighty-eight square feet in size.
3. No billboard is allowed at a distance less than one thousand feet from any other billboard on the same side of the roadway, provided however, that billboards may be placed back to back where the separation of panels does not exceed ten feet.
4. Billboards must be erected on a dark colored monopole.
5. No double faced stacked billboards or billboards placed on top of a building are allowed.
6. All billboards must be maintained in good repair and meet all city and state regulations.
7. In addition to other applicable requirements, an applicant for a permit to erect a billboard shall furnish to the Development Services Department:
 - a. Footing and structure details and a computer generated drawing of the proposed billboard.
 - b. A letter of review of the billboard location from the Nebraska Department of Roads.

25-6-16.3. Billboards. Digital Regulations.

1. **Illumination.** A billboard may be illuminated, provided such illumination is consistent with the requirements for a digital billboard as set forth herein, or is concentrated on the surface of the billboard and is located so as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles or any adjacent premises.
2. **Appearance** – All billboards must be stationary and may not contain any visible moving parts, alternating or moving messages or have the appearance of having moving parts or messages. Under no circumstances may any type of billboard contain a message or display that appears to flash, undulate, pulse, move, or portray explosions, fireworks, flashes of light, or blinking lights or otherwise appears to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist or make other comparable movements.
3. **Construction & Maintenance.** A billboard shall be constructed in such fashion that it will withstand all wind and vibration forces that can normally be expected to occur in the vicinity and in compliance with all applicable codes. A billboard shall be maintained so as to assure proper alignment of structure, continued structural soundness and continued readability.
4. **Cap & Replacement** – Two to one replacement of off premise billboard signage must be removed for every one square foot installed. (see nonconforming signs 25-6-16.4)
5. **Display** – (1) The display or message on a digital billboard, of any type, may change no more frequently than once every ten seconds, with a transition period of two seconds or less. Distance between - 5,000 feet.
(2) The display or message must otherwise comply with subsection 2 and the digital billboard must have installed an ambient light monitor which shall continuously monitor and

automatically adjust the brightness level of the display based on ambient light condition consistent with terms of this ordinance.

(3) Maximum brightness levels for digital billboards shall not exceed .2 (two tenths) foot-candles over ambient light levels measured within 150 feet of the sign. Certification must be provided to the City demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration shall be annually required by the City, in its reasonable discretion, at the applicant/owners expense to ensure that the specified brightness levels are maintained at all times.

(4) Brightness of digital billboards shall be measured as follows:

A. at least 30 minutes following sunset, a foot candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre-set location.

B. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.

C. If the difference between the readings is 0.2 candles or less, the brightness is properly adjusted.

6. Other Applicable Laws. A billboard must comply with all applicable provisions of federal and state law.”

25-6-16.4 Non-conforming Signs.

All Nonconforming signs shall be brought into compliance when one or more of the following occurs:

- 1) When the sign is damaged by any means in excess of 60 percent of its replacement value at the time such damage occurs.
- 2) Notwithstanding the above, the owner of an nonconforming off premises sign with side by side faces in one direction, may replace said sign provided that:
 - a. The replacement sign shall have not less than 200 square feet or more than 288 square feet per face.
 - b. The sign structure for the replacement sign shall utilize a monopole design that is structurally rated to accommodate the replacement sign.
 - c. If the replacement sign is illuminated by reflected lighting, the lighting shall be provided by down lighting methods or in accordance with digital lighting regulations if a digital display face is utilized.
 - d. The replacement sign shall be located a minimum distance of 150 feet from a residential district, park, or cemetery when facing such district, park, or cemetery.
 - e. The replacement sign will be installed within 180 days of the removal of the existing off premise sign being replaced.”

25-6-17. Political signs; intent of regulation.

The intent and purpose of the regulations in this Article pertaining to political signs is to allow a maximum of political expression by such means which is compatible with significant interests of the public and of individuals in the protection of the right of privacy of individuals and the quiet and undisturbed enjoyment of property, and which will prevent practices commonly associated with the placement of such signs which are not conducive to the public health, safety and welfare, including but not limited to trespassing upon private property, placement without permission of the property owner, placement in such manner as to make removal difficult, hazards to traffic because of size, location or proliferation, aesthetically displeasing impact in residential areas, littering caused by dislodged signs, and delay in removal of non-removal of signs after an election. (Ord. 3639, 2000)

25-6-18. Authorization; restrictions; requirements; general.

Political signs are permissible in any zoning district, subject to compliance with:

- (1) the restrictions and requirements contained in sections 25-6-18 through 25-6-24, and
 - (2) the restrictions and requirements contained in sections 25-6-2, 25-6-6 and 25-6-8.
- (Ord. 3639, 2000)

25-6-19. Specifications; R, O-P, PBC, A Zones.

No political sign in any R Zone, O-P Zone, PBC Zone or A Zone shall exceed eight (8) square feet in total area; provided a double-faced sign may have such area on both sides. No political sign, unless within a building or enclosed structure, shall have an overall height in excess of four (4) feet. No political sign shall be specially lighted, either directly or indirectly. (Ord. 3639, 2000)

25-6-20. Sign placement; removal; time.

No political sign shall be erected or displayed sooner than forty-five (45) days prior to the date of the election to which the sign pertains, and every such sign shall be removed by the applicant within ten (10) days after the election. (Ord. 3639, 2000)

25-6-21. Posting; consent of property owner; public rights of way, property.

Nothing in this Article shall be interpreted to authorize the posting or display of political signs upon:

1. private property without the consent of the person(s) in possession or control thereof,
- or
2. the right of way of any public street, alley or other public way, or upon any property owned by, or in the possession or control of, any governmental subdivision or agency. (Ord. 3639, 2000)

25-6-22. Signs in violation; notice.

If a political sign shall have been placed without compliance or, as the case may be, shall not have been removed in compliance, with an applicable provision in this Article, the Development Services Director shall cause written notice specifying the violation and ordering removal of the sign within three (3) days after the date of the order, to be personally served or, as the case may be, mailed (1) to the person(s) who erected the sign, if known or if not known; (2) to the person(s) in possession of the premises, if known or if not known; to (3) the owner(s) of record of the premises. It shall be unlawful for the person(s) to whom such an order is directed to fail to comply with the order. (Ord. 3639, 2000)

25-6-23. Signs in violation; removal.

The event of refusal or failure to remove a political sign on the part of the person(s) to whom an

order to remove the sign has been directed as provided in this Article, the Director or Code Administrator II may enter upon the premises and remove the sign if situated in a yard not wholly enclosed within a fence, including a closed gate, and if such entry will not violate any provision in sections 13-2-9 or 13-2-10. After such officer shall have removed such a sign, he or she shall cause it to be transported to the office of the Department of Planning, Building and Development, where it shall be held for a period of thirty (30) days, during which it may be claimed and received by a person entitled to possession of the sign, as determined by the Director or Code Administrator II. If the sign shall remain not claimed and received, as provided in this section, after such period, the Director shall cause the sign to be destroyed. (Ord. 3639, 2000)

25-6-24. Signs inside buildings, structures.

The restrictions and requirements contained in the preceding sections shall not apply to any political sign placed inside a building or enclosed structure. (Ord. 3639, 2000)

25-6-25. Placards; signs; bills; posting; printing; painting; prohibited.

It is hereby declared unlawful for any person, firm or corporation to post, print, paint, or in any other manner place upon any sidewalk, crossing or crosswalk or other way or passage for the use of pedestrians or upon any pavement in any street or alley in the City any placard, sign, advertisement, display bill, letter or kindred matter of any kind or description, unless permitted by a Planning and Development Official pursuant to section 20-6-1 of this Code. (Ordinance 4129, 2014)

25-6-26. Handbills; posters; dropping; leaving; prohibited.

It is hereby declared unlawful for any person, firm or corporation to throw, cast or put into, drop or leave in any street, alley, sidewalk, parking, or public place any handbill, poster or other advertising or printed matter of any kind or description.

25-6-27. Banners; placards; advertisements; carrying; for display; prohibited.

No person or persons shall carry any banner, placard or advertisement for the purpose of displaying the same in or upon any street, sidewalk or public place within the City, provided, however, that this restriction shall not apply to banners, placards or advertisements advertising goods or services offered by a non-profit organization

25-6-28. Flags, banners, temporary signs.

Unless prohibited by section 25-6-25, flags and banners of a non-commercial nature may be attached to poles set in concrete or in the ground in a street right-of-way in a non-residential area. All flags, banners and temporary signs placed pursuant to this section shall

- (1) be securely attached to a pole or cable,
- (2) not be hung so as to come in contact with cars parked in designated parking areas or with pedestrians using sidewalks or persons getting in or out of parked vehicles,
- (3) be removed as soon as torn or damaged.

Subject to the above restrictions, flags and banners may also be attached to cables attached to poles with the approval of the City Council as long as the flags and banners do not at any point hang less than 12 feet above a city street and are being placed during and in conjunction with an event described in section 20-6-52.

The City Manager, or any City employee designated by the City Manager to enforce the

provisions of this Chapter, may require a flag, banner, pole or cable to be removed or modified if it creates a hazard to pedestrians or vehicles.

25-6-29. Signs; prohibited; exceptions.

It shall be unlawful for any person, firm or corporation to erect or install any sign, signpost advertisement, signpost or other form of sign support, or any part thereof, upon or in such manner as to project wholly or in part over the right-of-way of any street or avenue (including but not limited to, any sidewalk or sidewalk area) or alley of the City, or to permit any such sign owned or leased by such person, firm or corporation to remain, except as hereinafter provided.

25-6-30. Same; extending signs.

An existing sign which extends over the right-of-way of any street or avenue may be maintained, and a permit may be issued for the erection, remodeling or replacement of a sign which so extends only if the sign meets, or after remodeling or replacement will meet, all of the following requirements, as determined by the City Planner:

- (1) the sign is attached only to, and supported only by, a building that is situated on a lot or tract of land concerning which there exists no restrictive building setback line of record, and that also abuts, at the point of attachment of the sign, the right-of-way line of the street or avenue,
- (2) the sign is situated not less than ten (10) feet above the surface of the sidewalk, or sidewalk area, and no part of the sign projects beyond a point which is perpendicularly above a point that is less than three (3) feet distant from the rear line of the curb or, if there is no curb, from an extension of the rear line of the nearest curb and
- (3) the sign is or, as the case may be, will be safe and secure, and will not constitute a hazard to persons or vehicles on the street, avenue, sidewalk or sidewalk area.

25-6-31. Same; permit; application; determination; revocation.

Before erecting, remodeling or replacing any sign that will extend over any street, avenue, sidewalk or sidewalk area, a written permit therefor shall be obtained from the City Planner. In order to obtain such a permit, the person, firm or corporation wishing to erect remodel or replace the sign shall file with the Official a written application for a permit, which application shall provide full information as to size, weight and character of the sign, its height above the surface of the sidewalk or sidewalk area, and the distance of its outer edge from the rear line of the curb or, if there is no curb, from an extension of the rear line of the nearest curb together with drawings or other data showing the nature and location of the building to which the sign will be attached, and the method of securing and fastening the sign. If the City Planner shall find that the sign will comply with all of the requirements of this Article, he or she may issue the permit: otherwise, he or she shall deny the application. Any such permit, if issued, shall be revocable by the City Planner at any time, upon a determination by him or her that the sign does not comply with all the requirements of this Article as then existing.

25-6-32. Signs; inspection; insecure; unsafe; owner; duty to repair, remove.

All such signs shall be periodically inspected by the City Planner. If it appears to the City Planner that any sign is insecure or unsafe it shall be ordered made safe or removed forthwith by the person maintaining the sign.

25-6-33. Same; violations; nuisance; notice; removal.

Every sign, signbox, advertisement or signpost erected or maintained in violation of any of the

provisions of this Chapter is hereby declared to be a nuisance, and shall be removed by the City Planner at the expense of the owner thereof after one (1) day's notice to such owner to remove such sign.

ARTICLE 7

PLANNED UNIT DEVELOPMENT

Section

25-7-1 Intent and purposes.

(a) GENERAL DEVELOPMENT STANDARDS

<u>25-7-2</u>	<u>Development standards; general requirement.</u>
<u>25-7-3</u>	<u>Development site; compatibility, accessibility, ownership.</u>
<u>25-7-4</u>	<u>Density.</u>
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25-7-1. Intent and purposes.

The City Council finds that planned unit developments differ in various significant respects from other types of land ownership, development and use, and that such developments therefore require certain different regulations. The general intent and purposes of this Article are to establish standards and procedures for Planned Unit Developments, including standards and procedures that are more flexible than those which are prescribed by conventional zoning regulations, whereby sufficiently large and properly located land areas can be developed in accordance with innovative and imaginative land planning concepts in a manner that will best serve both private and public interests. More particularly, but without limitation of the above generalities, the intent and purposes of this Article are:

- (1) to permit greater flexibility in the design of integrated developments,
- (2) to encourage the design of varieties of housing and other land uses in such developments,

(3) to encourage reservation of greater proportions of open spaces for visual purposes and recreational uses,

(4) to assure, in the process, that population density and building density and bulk conform to the general objectives of the City's zoning and subdivision regulations and its comprehensive development plan, and

(5) to facilitate accomplishment of these objectives through planned unit developments of various types. (Ord. 3639, 2000)

(a) GENERAL DEVELOPMENT STANDARDS

25-7-2. Development standards; general requirement.

All residential planned unit developments shall be designed to meet all of the general development standards concerning open space, circulation, off-street parking, height, coverage, bulk and other conditions prescribed in this subdivision (b) of this Article in such manner as to form a harmonious, integrated project of sufficient unity to justify exception to the general requirements of this Chapter. In addition, the planned unit development shall meet the development standards prescribed in other parts of this Article which by their terms are applicable to planned unit developments of the type in question. (Ord. 3639, 2000)

25-7-3. Development site; compatibility, accessibility, ownership.

(1) Compatibility. The location and arrangement of structures, parking areas, drives, walks and fences, lighting, signing and appurtenant facilities in a planned unit development shall be compatible with the surrounding land uses. The development shall not impose an undue burden on public services and facilities, such as fire and public services, or on the local school system.

(2) Accessibility. The total development site shall be accessible from public roads or streets, or both, that are adequate to carry the traffic that will be imposed upon them by the proposed development.

(3) Ownership. The entire block, lot or tract of land to be occupied by the development shall be held in a single ownership or control. (Ord. 3639, 2000)

25-7-4. Density.

Density standards prescribed in this Chapter for the zone in which the development is located shall apply, unless the Planning Commission shall find that authorization of a greater density in development as provided in this Article will provide greater open space and other desirable features which are not regularly required for the zone; provided, the Planning Commission may not authorize a density within the development exceeding one hundred fifty (150) percent of the density authorized by ordinance in the zone in which the planned unit development is located. (Ord. 3639, 2000)

25-7-5. Individual use areas; size.

The minimum area of each individual use area in a planned unit development shall be:

- | | | |
|-----|---------------------------------|---------------------------|
| (1) | Residential | ½ acre |
| (2) | Residential/office/professional | 7,200 sq. ft. |
| (3) | Residential/commercial | None |
| (4) | Commercial | None |
| (5) | Industrial | 2 acres (Ord. 3639, 2000) |

25-7-6. Buildings; coverage.

Buildings and structures shall not cover more of a lot or of the total development site than would be permitted in meeting:

- (a) all requirements with respect to the zone in which the development is to be located and, in addition,
- (b) all the requirements of this Article. (Ord. 3639, 2000)

25-7-7. Setbacks.

All buildings and structures in a planned unit development shall be set back from a street, road or drive, whether or not dedicated to public use, not less than the distance required with respect to setbacks from dedicated public streets in the zone in which the development site will be situated, except as herein provided. If the street, road or drive shall have been formally dedicated to public use, the setback shall be from the dedicated right of way of the street, road or drive. If the street, road or drive shall not have been formally dedicated to public use, the setback shall be from a line established by a recordable instrument executed and acknowledged by the owner of the development site, expressly approved by the Planning Commission as establishing a setback that is compatible with the general setback requirements in the zone and as being sufficient as to form, and recorded by the City Clerk at the expense of the owner before any affected building sites in the development are sold, or contracted to be sold, or construction of any building or structure on any such sites is commenced. Provided, the Planning Commission may require an additional setback from a heavily traveled street, road or drive if it determines such a setback to be reasonably necessary or proper for the public health, safety and welfare. (Ord. 3639, 2000)

25-7-8. Height.

The height of buildings and structures in any proposed planned unit development shall not exceed the height limitations in the zone in which the development is to be located. (Ord. 3639, 2000)

25-7-9. Private storage areas.

Where a proposed building is to be constructed without an attached garage or detached garage for each dwelling unit, a minimum one hundred (100) cubic feet of private storage space shall be provided within each dwelling unit. Such storage area shall be accessible from the exterior of the individual dwelling unit, and the design, location and size of the storage space shall be integrated into the building and the development generally. (Ord. 3639, 2000)

25-7-10. Vehicular storage.

Outside areas for storage of boats, trailers, recreational vehicles and similar vehicles are prohibited, unless provision for such areas for the exclusive storage of such vehicles is contained in restrictive covenants approved by the Planning Commission. Where such areas are provided, they shall be screened and enclosed from view on a horizontal plane from adjacent areas by a six (6) foot high architectural barrier compatible with the architectural design of the development and permanently maintained. A vehicle wash area may be provided within close proximity of the vehicle storage area. Specification for such a wash area shall be submitted to and approved by the Development Services Director. (Ord. 3639, 2000)

25-7-11. Other accessory uses.

Other accessory uses solely for the convenience of the occupants of the development which the Planning Commission determines to be compatible with a planned unit development approved by it,

may be authorized by the Commission by special permit. (Ord. 3639, 2000)

25-7-12. Walls, fences.

The general development standards in Article 6 of this Chapter for fences, walls and hedges as shall apply to fences, walls and hedges in planned unit developments. Providing the Planning Commission may require additional walls and fences if it determines that such walls or fences are necessary to protect adjacent properties or occupants of the planned unit development. (Ord. 3639, 2000)

25-7-13. Streets, drives; adequacy, primary drives, secondary drives, drives serving garages.

(1) Adequacy. The streets and drives on the proposed development site shall be adequate to serve the occupants of the development.

(2) Primary drives. All drives designed to provide primary access through a development shall be improved with pavement having a minimum width of twenty eight (28) feet. All improvements of such drives shall be constructed in accordance with general City standards, including the installation of standard curb and gutter, for public streets of the City.

(3) Secondary drives, ways. All secondary drives and vehicular ways shall be improved with pavement having a minimum width of twenty-six (26) feet. All improvements of such drives and ways shall be constructed in accordance with general City standards, including the installation of standard curb and gutter, for public streets of the City.

(4) Drives serving garages. Where a private drive serves only garages, and the drive is posted to prohibit all other use or parking, the drive shall be improved with pavement having a minimum width of twenty-six (26) feet and shall otherwise conform to general City standards, including the installation of standard curb and gutter, for public streets of the City. (Ord. 3639, 2000)

25-7-14. Vehicular access; to development site, on-site parking areas, individual dwelling units.

(1) To Development Site. Vehicles shall have access to a planned unit development site only from a public street. However, no vehicle shall have direct access to a development site from a major public street, unless the Planning Commission shall determine:

- a. that an existing development site has no alternative means of ingress and egress, and
- b. that the owner of the site has shown that access from a major street will not hazardously affect the function of the street or be detrimental to the safety of motorists.

(2) To On-site Parking Areas. Vehicles shall have access to on-site parking areas by means of:

- a. a loop system, each one-way roadway of which has a minimum width of twenty (20) feet, or
- b. all drive and vehicular access ways that provide access for fire and emergency vehicles, or either.

A minimum vertical clearance of fourteen (14) feet and a minimum horizontal clearance of twenty (20) feet shall be provided.

(3) To Individual Dwelling Units. Vehicles shall not have direct ingress to or egress from individual dwelling units from or to a public street. (Ord. 3639, 2000)

25-7-15. Pedestrian circulation system.

A pedestrian circulation system shall be incorporated into the development for the purpose of providing direct access to and from all individual dwelling units, trash storage areas, parking areas, recreational areas and other outdoor living spaces. The circulation system shall be developed with a combination of the following improvements:

(1) a public sidewalk system adjacent to all public streets or drives which shall have a minimum width of five (5) feet and shall be constructed in accordance with general standards of the City for public sidewalks, and (2) an interior walkway system, which shall include pedestrian walks or paths consisting of varying widths designed to provide curvilinear forms wherever possible. The minimum width of interior pedestrian walks and paths shall be four (4) feet. The interior walkway system shall utilize substantial materials such as concrete, brick, flagstone or other materials approved by the Development Services Director.

Provided, the Planning Commission may approve an alternative sidewalk and pedestrian access plan which it determines will accomplish substantially the same results. (Ord. 3639, 2000)

25-7-16. Vehicular, pedestrian access, circulation; plans; modification.

The Planning Commission, upon review of a proposed planned unit development plan, may, even if the plan complies with the requirements of sections 25-7-13 to 25-7-15, inclusive, require modifications in the size, number and location of access points and vehicular, pedestrian or multi-modal on-site circulation system which it determines to be necessary or proper in order to protect and enhance adjacent properties and protect the public safety and welfare. (Ord. 3639, 2000) This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-17. Open spaces; common.

The planned unit development plan shall include such provisions for the ownership and maintenance of all common open spaces as are reasonably necessary, as determined by the Planning Commission, to assure the continuity, care, conservation and maintenance of such spaces, and to assure that remedial measures will be available to the owners of individual units, or their association, if the common space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the occupants of the planned unit development and of the entire community, or either. (Ord. 3639, 2000) This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-18. Dedicated recreational areas.

Any recreational area in a planned unit development which is proposed to be dedicated to the City for public use shall comprise not less than one (1) acre, and shall have direct access from a public street. (Ord. 3639, 2000) This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-19. Lighting.

The developer of a planned unit development shall install a lighting system on all streets, roads and drives and along all major walkways in the development which shall equal in illumination lighting on public streets of the City, subject to approval of the Development Services Director. Such lighting shall be directed onto the drives and walkways and away from adjacent properties. Walkway lighting shall be a low-level fixture, spaced to provide adequate walkway illumination, be vandal proof and shall not intrude unnecessarily into residential units. All drives, walkways, parking areas, outdoor activity areas, outdoor entries to individual dwelling units, private patios, mail collection and trash collection areas shall be illuminated during hours of darkness. Lighting for individual dwelling unit entries and private patios shall be independently controlled by the occupant(s) of such dwelling unit. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-20. Landscaping; requirements; inspection.

All setback areas in a planned unit development fronting on or visible from a public street and all

recreation, leisure and open areas shall be landscaped and permanently maintained in an attractive and appropriate manner. Such landscaping shall consist primarily of ground cover, trees, shrubs and other living plants. Landscape maintenance shall be subject to immediate and periodic inspection by the City. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-21. Signs; required signs, permitted signs.

(1) Required Signs. There shall be provided by the developer of a residential planned unit development signs that will enable motorists, pedestrians and emergency services, including fire and police services, to locate residential units from access points on the development perimeter. Such signs shall illustrate the site plan, names of streets and drives, and ranges of corresponding street and drive addresses. Such signs shall include the following:

- a. one (1) indirectly illuminated monument sign per development entrance for the purpose of identification, which shall contain the name and address of the development only. Such sign shall not exceed twenty (20) square feet in aggregate area or five (5) feet in overall height. It shall be erected within a landscaped area and located not less than fifteen (15) feet from the curb face,
- b. in lieu of a monument sign such as is referred to in subsection (1), one wall sign per development entrance, which shall be incorporated into an exterior perimeter wall of the development. Such sign shall consist of individually mounted letters and numbers which identify the name and address of the development only. Such letters and numbers shall not exceed eighteen (18) inches in height, and shall be indirectly illuminated,
- c. one (1) directory sign per entrance of the development, which shall illustrate the site plan, names of streets and drives and ranges of corresponding street and drive addresses. Such sign shall not exceed twenty (20) square feet and five (5) feet in height, and shall be indirectly illuminated,
- d. one (1) unlighted or luminous nameplate not exceeding thirty-two (32) square inches in area for each dwelling unit, indicating the address number of the unit, and
- e. private drive signs at uniform locations throughout the development. Such signs shall be similar to standard city street signs, and shall be approved by the Development Services Director.

(2) Permitted Signs. For sale, lease or rent signs, and sold signs, which are permitted in Article 6 are permitted in planned unit developments. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-22. Appearance standards.

The Planning Commission, before approving a planned unit development, shall consider the following standards, as well as those referred to elsewhere in this part (b) of this Article:

- (1) architectural features and general appearance of the proposed development shall enhance the orderly and harmonious development of the entire development and the community as a whole,
- (2) architectural features and permanent colors, if any, shall be incorporated into the design of all vertical exterior surfaces of buildings in such manner as to create an aesthetically pleasing whole,
- (3) particular attention shall be given to incorporating the design, including colors of signs, into the overall design of the entire development in order to achieve a unity, and

(4) vehicular access ways shall be designed with landscaping and building variation to avoid an alley-like appearance. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-23. Sanitary sewer, water systems.

Sanitary sewer and water systems shall be designed and installed to City standards and specifications for sanitary sewer and water systems installed by the City. Such systems shall be located within private drives, roads or alleys, unless otherwise shown in the final plat approved by the City Council. In no case shall sewer mains or lines extend underneath any dwelling unit other than the unit served by the main or line. Provisions shall be made, in an instrument recordable and indexable against the development site in the office of the Register of Deeds, to identify those parts of the system which are privately owned and those, if any, which are publicly owned. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-24. Storm drainage systems.

Storm drainage systems shall be designed and installed to City standards and specifications for storm drainage systems installed by the City. Such systems shall provide for delivery of on-site drainage to a public storm drainage system. An off-site storm drainage system may be required by the Planning Commission if it shall determine that such a system is necessary to protect adjacent properties. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-25. Fire hydrant system.

A fire hydrant system to provide an adequate fire flow for fire protection purposes shall be designed and installed to City standards and specifications for fire hydrant systems installed by the City. The adequacy of such a proposed system shall be approved by the City water and fire departments, and the system shall be tested and approved by such departments prior to commencement of the framing stages of building on development site. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-26. Utility, cable T.V. services.

All utility services, including cable T.V., shall be installed underground, unless the Planning Commission finds that specific engineering or design problems would prevent such installation. Electrical utilities shall be installed in accordance with the National Electrical Code. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-27. Trash collection areas.

Individual or common trash collection areas shall be provided. Such areas shall be provided within one hundred (100) feet of the farthest unit they serve, and shall be situated so as to eliminate noise and visual intrusion on adjacent property and dwelling units, as well as to avoid fire hazard to adjacent structures. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-28. Laundry areas.

Laundry areas shall be provided in individual dwelling units or at central locations throughout the development site for adequate use and convenience of the occupants of the planned unit development. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-29. Mail delivery.

Mail delivery service shall be provided at central points which are easily accessible from streets and drives in the development, and shall not be so located as to interfere with traffic movement. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-30. Recommendations; Planning Commission.

The Planning Commission may adopt by resolution additional recommended standards of general applicability concerning the design and construction of planned unit developments which are compatible with the intent and purposes of the City's zoning and subdivision ordinances and comprehensive development plan. Provided, compliance or noncompliance with such recommendations shall not be a factor to be considered by the Commission in granting or denying an application for a special permit for a planned unit development. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

(b) CONDOMINIUM PROPERTY**25-7-31. Condominium property regulations; applicability; scope; purpose.**

- (1) Applicability. The regulations in this part (b) of this Article apply to real property which:
 - a. is proposed to be developed as a residential planned unit development comprising apartments and common areas, and
 - b. has been, or is to be, subjected to a condominium property regime under the Condominium Property Act or Nebraska Condominium Act.
- (2) Scope. With respect to such property, these regulations supersede all other regulations in this Article, and in other Articles in this Chapter, which are in conflict with these regulations, except such other regulations as are specifically applicable to townhouse or cluster housing projects. Except in cases of such conflict, or in situations in which such other regulations clearly are inapplicable (because clearly inappropriate) to property to which the regulations in this part (b) apply, such other regulations, if otherwise applicable, apply, also, to such property.
- (3) Purpose. The purpose of the regulations in this part (b) of this Article are to permit the planning, construction and occupancy of residential planned unit developments of the type described above, in accordance with standards for large scale residential developments containing adequate parking facilities, open spaces, recreational facilities, pedestrian walkways and other amenities which are not required or, as the case may be, permitted under other provisions in this Article, or other Articles in this Chapter. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-32. Accessory uses.

A condominium development may contain accessory uses permitted within the zone in which the development is located, providing that commercial uses are so located as to minimize interference with residential or recreational areas within the development, and to avoid creation of traffic congestion or other objectionable influences affecting residences outside the development. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-33. Condominium property regime; established; when.

A condominium property regime shall be deemed to have been established whenever the sole owner or other owners of residential property which is eligible to be subjected to such a regime under the Condominium Property Act or Nebraska Condominium Act shall declare his, her or their desire so to do in the manner prescribed by the Act. As provided by the Act, such a regime may be established with respect to a project whereby four or more apartments are separately offered or proposed to be offered for sale. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-34. Setbacks; public street, other vehicular access ways, abutting property line.

(1) Public Street. The minimum setback from a publicly dedicated street for all buildings and structures exceeding forty-two inches (42") in height in a residential condominium development shall be that which is required in the zone in which such development is located; provided, this restriction shall not apply to construction of a six (6) foot decorative wall or fence along an arterial highway or other public street in a situation in which such construction is necessary to diminish noise and establish pedestrian traffic control, if permitted or required by the Planning Commission in connection with issuance of the special permit.

(2) Other Vehicular Access Ways. The minimum distance between buildings and vehicular access ways, other than publicly dedicated streets, on a condominium development site shall be:

- a. between vehicular access way and that portion of a building used for human habitation, ten (10) feet, and
- b. between travel lanes on vehicular access way and garage or parking structure, five (5) feet. However, where garages attached or adjacent to the residence building they are to serve are to be constructed, a minimum of fifty (50) percent of the area of such garages shall set back not less than twenty (20) feet from the curb line, or back of sidewalk, whichever distance is greater.

The distance between uncovered and unenclosed parking spaces and any ground floor area of a building used for human habitation shall not be less than six (6) feet.

(3) Abutting Property Line. The minimum setback from a property line of abutting property for all buildings thirty (30) feet or less in height, except garages, shall be ten (10) feet.

The minimum setback from an interior property line for garages shall be ten (10) feet; provided, such a structure may be constructed at a zero setback if:

- a. the finished grade of the condominium development at the common property line shall not be higher by more than one (1) foot than the finish grade on abutting property,
- b. the wall of such structure constructed along the common property line shall be a full fire separation wall, and
- c. no portion of the structure or architectural features shall project over the common property line. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-35. Building separation.

The minimum distance between buildings on a condominium development site shall be:

- (1) between one-story buildings, front to front, twenty-five (25) feet. This distance shall be increased by five (5) feet with respect to each story of each building in excess of one (1) story,
- (2) between one-story buildings, rear to rear or rear to front, twenty (20) feet. This distance shall be increased by five (5) feet with respect to each building in excess of one (1) story,
- (3) between one-story buildings, side to front, or side to rear, fifteen (15) feet. This distance shall be increased two and one-half (2 ½) feet with respect to each story of each building in excess of one (1) story,
- (4) between one-story buildings, side by side, ten (10) feet. This distance shall be increased by two and one-half (2 ½) feet with respect to each story of each building in excess of one (1) story, or by five (5) feet with respect to each dwelling unit in excess of two (2) stories contained in either one of the structures, whichever distance is greater,
- (5) in the case of an obliquely aligned building, the distance specified above may be decreased by five (5) feet at one building corner if increased by an equal or greater distance at the

other corner,

(6) between detached accessory buildings, ten (10) feet, and

(7) between ground floor area of buildings used for human habitation and detached accessory building, ten (10) feet. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-36. Floor area.

The minimum floor area of an apartment in a condominium development shall be:

Type	Area (Sq. Ft.)
One bedroom	500
Two bedroom	600
Three bedroom	650
Four bedroom	700 (Ord. 3639, 2000).

This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-37. Buildings; size; exterior design.

All structures in a condominium development shall conform to the following requirements:

(1) structures having dwelling units attached side by side shall contain not more than eight (8) apartments, and be not more than two hundred (200) feet in length,

(2) structures having apartments attached side by side shall have an offset in the front building line of not less than two (2) feet for every two (2) dwelling units within the structure,

(3) not more than three (3) apartments attached side by side shall have rear walls in continuous alignment. The minimum offset for such walls shall be one (1) foot, and

(4) structures having apartments attached side by side shall provide a variety of heights to minimize the apparent bulk of the structure. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-38. Off-street parking.

Except for a residential condominium located in a Central Business (C-1) District, a condominium development site shall include, as a minimum the following off-street parking facilities:

(1) two (2) parking spaces for each apartment. One of such spaces shall be a fully enclosed garage, which shall be located adjacent to the apartment being served. The minimum inside dimension of all parking spaces shall be ten (10) feet in width and twenty (20) feet in length,

(2) no parking space or stall except a garage, and no driveway shall be closer than six (6) feet to any residential building, and

(3) guest parking: one (1) parking space for each five (5) apartments. Guest parking shall be distributed throughout the condominium development site.

Such parking facilities shall meet, in addition, all of the requirements of sections 25-5-4 to 25-5-16. Parking on streets, drives or alleys shall not be used to satisfy any of the requirements of this section. (Ord. 3639, 2000; Ord. 4152, 2015). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-39. Common open space.

A condominium development site shall include common open space for recreational and leisure activities of the occupants of the development aggregating not less than four hundred fifty (450) square feet per each apartment or thirty-five (35) percent of the total area of the development site, whichever is greater. Common open space does not include public streets, driveways, private yards and patios, parking spaces, parkways or other areas not primarily designed for recreational or leisure

use. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

(c) TOWNHOUSES

25-7-40. Townhouses; regulations; applicability, scope, purpose.

(1) Applicability. The regulations in this subdivision (c) of this Article apply to townhouse planned unit developments.

(2) Scope. With respect to such developments, these regulations supersede all other regulations in this Article, and in other Articles in this Chapter, which are in conflict with these regulations, except such other regulations as are specifically applicable to condominium property developments. Except in cases of such conflict, or in situations in which such other regulations clearly are inapplicable (because clearly inappropriate) to townhouse developments, such other regulations, if otherwise applicable, apply also to such developments.

(3) Purpose. The purpose of the regulations in this subdivision (c) of this Article is to permit the planning, construction and occupancy of townhouse developments in accordance with standards for townhouses, and for accessory buildings and lands to which the townhouses are appurtenant, containing adequate parking facilities, open spaces, recreational facilities, pedestrian walkways and other amenities which are not required or, as the case may be, not permitted under other provisions in this Article, or other Articles in this Chapter. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-41. Lots; area.

The minimum area of a lot on which is constructed a townhouse shall be three thousand five hundred (3,500) square feet; provided, the Planning Commission, at the request of the applicant for a special permit for a townhouse development, may permit townhouses to be construed on lots the area of which is not less than two thousand five hundred (2,500) square feet, providing the number of dwelling units per acre of land (exclusive of public rights-of-way) does not exceed twelve (12), that not less than ten (10) percent of the area (exclusive of front, rear and side yards, private walkways and driveways, and public street and alleys) be reserved for use as open space. (Ord. 3639, 2000).

This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-42. Lot; width.

The minimum width of a lot on which is constructed a dwelling unit in a townhouse shall be twenty (20) feet. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-43. Setback; side.

The dwelling unit at each end of the townhouse or, as the case may be, townhouse series shall set back not less than ten (10) feet from the side lot lines; provided, if that lot is a corner lot, the setback shall be not less than fifteen (15) feet. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-44. Floor area.

The minimum floor area of a dwelling unit in a townhouse shall be:

Type	Area (Sq. Ft.)
One bedroom	500

Two bedroom	600
Three bedroom	650
Four bedroom	700

(Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-45. Buildings; size; exterior design.

All structures in a townhouse development shall conform to the following requirements:

- (1) structures having dwelling units attached side by side shall contain not more than eight (8) dwelling units, and be not more than two hundred (200) feet in length,
- (2) structures having dwelling units attached side by side shall have an offset in the front building line of not less than two (2) feet for every two (2) dwelling units within the structure,
- (3) not more than three (3) dwelling units attached side by side shall have rear walls in continuous alignment. The minimum offset for such walls shall be one (1) foot, and
- (4) structures having dwelling units attached side by side shall provide a variety of heights to minimize the apparent bulk of the structure. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-46. Off-street parking.

Two (2) off-street parking spaces shall be provided within the townhouse development for each dwelling unit in the development. If more than one (1) such space is provided on a lot on which is situated a townhouse, such space shall be setback from the front lot line not less than the front building line. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-47. Common open spaces.

A townhouse development site shall include common open spaces for recreational and leisure activities of the occupants of the development aggregating not less than four hundred fifty (450) square feet per dwelling unit or thirty-five (35) percent of the total area of the development site, whichever is greater. Common open space does not include public streets, driveways, private yards and patios, parking spaces, parkways or other areas not primarily designed for recreational or leisure use. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

(d) CLUSTER HOUSING

25-7-48. Cluster housing; regulations; applicability, scope, purpose.

- (1) Applicability. The regulations in this subdivision (d) of this Article apply to cluster housing planned unit developments.
- (2) Scope. With respect to such developments, these regulations supersede all other regulations in this Article, and in other Articles in this Chapter, which are in conflict with these regulations, except such other regulations as are specifically applicable to condominium property developments. Except in cases of such conflict, or in situations in which such other regulations clearly are inapplicable (because clearly inappropriate) to cluster housing developments, such other regulations, if otherwise applicable, apply also to such developments.
- (3) Purpose. The purpose of the regulations in this subdivision of this Article is to permit the planning, construction and occupancy of cluster housing developments by permitting a reduction in yard and density requirements for dwelling units constructed in such a development, compensating therefor by providing open space, including recreational and other common areas, adjacent to each

lot in the development, and permitting private pedestrian and vehicular access ways to individual dwelling units. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-49. Lots; area.

The minimum area of a lot on which is constructed a cluster housing dwelling unit shall be four thousand (4,000) square feet; provided, the number of dwelling units per acre of land (exclusive of public right-of-way) shall not exceed eight (8). (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-50. Lot width.

The minimum width of a lot on which is constructed a cluster housing dwelling unit shall be forty (40) feet. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-51. Setback; front.

On cluster housing lots, any structure shall be set back not less than twenty-five (25) feet from the front lot line. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-52. Setback; side.

On cluster housing lots:

- (1) an attached or unattached dwelling unit having no side yard on one side shall have a side yard of not less than ten (10) feet on the opposite side,
- (2) any dwelling unit having no side yard shall have no openings on that side abutting the lot line unless that side abuts other open space, common ground, or recreational area,
- (3) an unattached dwelling unit which has no zero side yards on each side shall have a side yard that averages not less than five (5) feet and, in any event, is not less than three (3) feet, in width between the structure and the lot line, and
- (4) an attached dwelling unit may have zero side yards on both sides only if attached on both sides. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-53. Setback; rear.

On cluster housing lots, there shall be a rear yard of not less than fifteen (15) feet. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-54. Floor area.

The minimum floor area of a dwelling unit in a cluster housing development shall be:

Type	Area (Sq. Ft.)
One bedroom	500
Two bedroom	600
Three bedroom	650
Four bedroom	700

(Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-55. Off-street parking.

Two (2) off-street parking spaces shall be provided within a cluster housing development for each dwelling unit. If more than one (1) such space is provided on a lot on which is situated a dwelling

unit, such space shall be set back from the front lot line not less than the front building line.(Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

(e) MOBILE HOME PLANNED UNIT DEVELOPMENT

25-7-56. Mobile home planned unit developments; regulations; applicability, scope, purpose.

(1) Applicability. The regulations in this subdivision (e) of this Article apply to mobile home planned unit developments.

(2) Scope. With respect to such developments, these regulations supersede all other regulations in this Article, and in other Articles in this Chapter, which are in conflict with these regulations. Except in cases of such conflict, or in situations in which such other regulations clearly are inapplicable (because clearly inappropriate) to mobile home planned unit developments, such other regulations, if otherwise applicable, apply also to such developments.

(3) Purpose. The purpose of the regulations in this subdivision (e) of this Article is to permit the planning, construction and occupancy of mobile home planned unit developments in accordance with standards for mobile homes, and for accessory buildings and lands, containing adequate parking facilities, open spaces, recreational facilities, pedestrian walkways and other amenities which are not required or, as the case may be, not permitted under other provisions in this Article, or other Articles in this Chapter. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-57. Lots; area.

Mobile home sites in a mobile home planned unit development which are to be occupied by a “double wide” (twenty (20) feet to twenty-four (24) feet in width) mobile home shall have a site area of 3,800 square feet, and a minimum width of forty (40) feet. Mobile home sites which are to be occupied by a “single wide” (ten (10) feet to twelve (12) feet in width) mobile home shall have a minimum site area of 2,850 square feet and a minimum width of thirty (30) feet. (See Diagram A which follows, the provisions of which are incorporated in this section by reference.) (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-58. Site; area; frontage; density.

A mobile home planned unit development shall be not less than three (3) acres in area, and shall have a frontage on a dedicated street of not less than two hundred (200) feet. The density of a mobile home planned unit development shall not exceed seven (7) dwelling units per gross acre. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-59. Setbacks.

The following minimum yard setbacks shall be maintained in each mobile home planned unit development:

(1) public street frontage: On that part of a mobile home planned unit development which is adjacent to a major street, a minimum setback of twenty (20) feet shall be maintained. On that part of such development which is adjacent to a secondary street or a street with a lower classification, a minimum setback of fifteen (15) feet shall be maintained.

(2) interior lot lines: A minimum setback from interior lot lines of ten (10) feet shall be maintained. (See Diagram A) (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-60. Accessory buildings.

All accessory buildings and structures in a mobile home planned unit development shall be:

- (1) Located to the rear of the main building.
- (2) At least three (3) feet from the rear lot line if the line is a common lot line with an abutting lot.
- (3) At least two (2) feet from the interior side lot line and if the lot is a corner lot the accessory building shall not protrude beyond the mobile home into the front yard abutting the side street.
- (4) Any detached accessory building shall be situated not less than five (5) feet from the mobile home dwelling unit. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-61. Off-street parking.

Two (2) off-street parking spaces shall be provided on each mobile home unit site. (Ord. 3639, 2000).

This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-62. Other requirements.

To insure the residential character of a mobile home planned unit development, and to minimize adverse effects on adjacent properties, the following additional requirements shall be observed:

- (1) all tongues, when readily removable, shall be removed when the mobile home is in place. Those not detachable shall be screened by landscaping or other material approved by the Planning and Building Director.
- (2) all open areas under a mobile home shall be enclosed by approved skirts or by a combination of skirts and grading, except openings required for cross ventilation. (Ord. 3639, 2000).

This section renumbered by the City Clerk pursuant to §14-2-9.

(f) SPECIAL PERMITS**25-7-63. Special permit; zoning modifications.**

The Planning Commission may issue a special permit authorizing a planned unit development in zones R-1a, R-1b, R-2, R-3, R-4, R-6, R-7, OP, C-1, C-2, C-3, M-1(s) and M-2, and for that purpose modifying as to that development, as provided in this Article, zoning regulations relating to height, setback, area requirements and other provisions of this Chapter which otherwise would apply to the development, if the Commission determines that the requirements of this Article are met; provided, the Commission may not issue a special permit for townhouses or cluster housing in zones OP, C-1, C-2, C-3, M-1, M-1(s) and M-2. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-64. Preliminary plan; conceptual review.

A developer, before submitting to the Planning Commission an application for a special permit for a planned unit development, shall present preliminary plans for the development to the City Planner for conceptual review. The developer shall be prepared to outline during the presentation discussion the scope and character of the project. This presentation shall include, but not be limited to:

- (1) a tentative statistical summary of the proposal, including gross site area, net site area, number of each variety of dwelling units, total number of dwelling units, garages and parking spaces, the area devoted to open space, common ground and recreational area, and the proposed traffic circulation system,
- (2) a tentative site plan, including a topographical map,

- (3) a description of building types,
- (4) a tentative staging plan and a general time schedule of expected completion dates of elements of the plan,
- (5) a tentative financial plan and description of the intended means of financing any proposed recreational and community facilities,
- (6) size and scope of accessible shopping facilities, if any,
- (7) size and scope of any other community facilities,
- (8) preliminary statement regarding ownership and maintenance of open space, common ground and recreational areas, and,
- (9) changes, if any, of zoning requested. (Ord. 3828, 2005). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-65. Application for special permit; filing; fee.

An application for a special permit for a planned unit development, addressed to the Planning Commission, shall be filed with the City Planner after completion of the review by the City Planner of the preliminary plans for development. The application shall be accompanied by a filing and investigation fee as provided in Chapter 6, Article 6. Such application shall be submitted to the City Planner not less than one month prior to the meeting of the Planning Commission at which the special permit application is first to be presented. (Ord. 3828, 2005). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-66. Application; form; content.

An application to the Planning Commission for a special permit for a planned unit development shall be signed as required in, and contain the information required by the provisions of this Chapter pertaining to applications generally for special permits. To the extent that such information does not include the following, the application also shall include information or, as the case may be, be accompanied by documents, as follows:

- (1) a site plan, in six (6) copies, depicting:
 - a. the building sites, showing the arrangement and location of all buildings, structures and improvements proposed and to be retained or constructed and the gross floor area and ground floor area of each unit and building type. Both existing and proposed off-site improvements shall be included,
 - b. the location and design of on-site circulation, including pedestrian ways, on-site parking and location, and loading areas,
 - c. the location of all landscaped areas, fences, and trash storage areas and how utility services are to be provided,
 - d. contours at intervals of two (2) feet or spot elevations on a one hundred (100) foot grid if the land is approximately flat,
 - e. all streets adjoining the development site, and the width of existing and planned right-of-way,
 - f. designation of individual lots if construction of the proposed development is to occur in separate phases, or if such lots are proposed to be sold to individual owners, and
 - g. existing development on adjacent properties within two hundred (200) feet,
- (2) a landscape plan, including tentative landscape plant schedule, showing the location

of existing trees, if any, proposed to be removed and proposed to be retained, and the amount, size, type and location of landscaped areas, planting beds and plant materials, including provisions for irrigation,

(3) two architectural renderings, showing all elevations and floor plans of the proposed buildings and structures as they will appear on completion. All exterior surfacing materials shall be shown on the elevations, including type, and color of materials,

(4) scale drawings of all signs and exterior lighting, showing size, location, materials, colors, copy and method of illumination. These shall include all light standard specifications,

(5) preliminary grading plan and drainage plan which will assure that the development will be properly related to the site and to surrounding properties and structures,

(6) calculations indicating the land area devoted to each use in the planned unit development and its percentage of the total area,

(7) density of dwelling units per net acre of the total project area,

(8) number and location of all required parking, including visitor parking, and whether parking is proposed to be covered or open,

(9) a time schedule indicating when construction is to begin, the anticipated rate of development include dates for phase construction, and the approximate completion date,

(10) adequate drawings describing the system for disposition of sanitary waste and storm water,

(11) a vicinity map, showing the general arrangement of streets within one thousand (1,000) feet of the exterior boundaries of the proposed development site,

(12) a statement describing the provisions made or to be made for the effective care and maintenance of all of the following improvements, if not owned or maintained by the State or a governmental subdivision: streets, drives, sidewalks and other pedestrian ways; common open spaces (including landscaping thereof), common recreational and other common areas and spaces; exterior lighting; perimeter or common walls, fences, gates and hedges; signs; sewer and water mains and appurtenances, including fire hydrants; and other utilities equipment,

(13) special engineering studies and other soil investigations in the case of a planned unit development which is proposed to be located within a hazard area as defined and delineated in the City's Comprehensive Development Plan, if required by the Development Services Director, and

(14) any other drawings or additional information which the Director may determine to be necessary to adequately consider the drawings required by this Article and determine compliance with the purposes and intent of the Chapter.

The application proper shall be made on a form provided by the Development Services Department. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-67. Additional documents; condominium property.

If the planned unit development site has been, or is proposed to be, subjected to a condominium property regime as provided in the Condominium Property Act or Nebraska Condominium Act there shall be submitted to the Planning Commission with the application for a special permit for the development:

(1) a copy of the master deed which has been proposed to be recorded in the office of the Register of Deeds, which deed shall include covenants, conditions and restrictions making provision for the effective care and maintenance of all of the following improvements, if not owned or maintained by the State or a governmental subdivision: streets, drives, sidewalks and other pedestrian

ways; common open spaces (including landscaping thereof); common recreational and other common areas and spaces; exterior lighting; perimeter or common walls, fences, gates and hedges; signs; sewer and water mains and appurtenances, including fire hydrants; and other utilities equipment. Such covenants, conditions and restrictions shall include a recital to the effect that they cannot be made less restrictive without the approval of the City Council of the City, and (2) attached to the copy of the master deed, a copy of the plans of any building which complies both in form and in content with the requirements of the Condominium Property Act or the Nebraska Condominium Act.

Such master deed and attached plans, if not already recorded in the office of the Register of Deeds, shall be so recorded before a special permit for the planned unit development may issue. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-68. Additional documents; noncondominium property.

If the planned unit development site has not been, and is not proposed to be, subjected to a condominium property regime under the Condominium Property Act or the Nebraska Condominium Act, there shall be submitted to the Planning Commission with the application for a special permit for the development a set of written covenants, conditions and restrictions signed and acknowledged by the owner of the site and in such form as to be indexable against the site in the office of the Register of Deeds, which make provision, in a manner analogous to that provided in section 25-7-70, for the effective care and maintenance of improvements not owned or maintained by the State or a governmental subdivision. Such covenants, conditions and restrictions, if approved by the Planning Commission, shall be recorded in the office of the Register of Deeds before a special permit for the planned unit developments may issue. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-69. Concurrent applications.

Applications for approval of a preliminary plat or for zoning ordinance amendments which relate to an application for a special permit for a planned unit development may be submitted concurrently to the Planning Commission and, in the discretion of the Commission, may be considered by it concurrently. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-70. Ability to perform; construction schedule.

The applicant shall satisfy the Planning Commission of applicant's ability to carry out the proposed plan, and shall submit a schedule of construction. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-71. Recommendation by Director.

The Development Services Director shall make recommendations to the Planning Commission concerning approval, conditional approval, or denial of a pending application for a special permit for a planned unit development. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-72. Bond.

If the Planning Commission finds that a special permit for a planned unit development should issue,

it shall fix the amount of a bond to be filed by the owner of the development site with the City Clerk, and by him or her approved, prior to issuance of the permit. The bond shall be executed by the owner and by a corporate surety authorized to do business in the State of Nebraska. The bond shall be payable to the City to reimburse the City for any damage the City may sustain in the event the owner,

his or her successors or assigns shall fail to construct and maintain the planned unit development, or any part thereof, in compliance with the requirements of this Article, and with the covenants, conditions and restrictions required under this Article to be recorded, including, but not limited to, reasonable expense the City may incur, whether by or without litigation, in obtaining, or attempting to obtain, compliance by the owner, his or her successors and assigns, with this Article and with such covenants, conditions and restrictions. The condition of the bond shall be that the owner, his or her successors and assigns shall construct and maintain the planned unit development in compliance with the requirements of Article 7, as amended, of Chapter 25 of the Municipal Code, and with the covenants, conditions and restrictions recorded with the Register of Deeds as required by such Article; otherwise, the bond shall remain in full force and effect. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-73. Special permit; provisions.

A special permit for a planned unit development may authorize the development to be carried out in accordance with the plan submitted, or with such modifications or conditions, to be specified in the permit, as the Planning Commission shall deem to be necessary to effectuate the purposes of this Article. Conditions may include, but shall not be limited to, such matters as the recording of a final plat, easements or other additional covenants or restrictions, or time limits or a sequence of development to be observed. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-74. Special permit; duration; building permit; construction.

If a special permit for a planned unit development is issued, a building permit must be obtained and construction of the development must begin within one (1) year after the date of issuance of the special permit. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-75. Special permit; renewal.

A special permit for a planned unit development cannot be renewed. However, a new application for such a permit may be submitted to and acted upon by the Planning Commission. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-76. Special permit; transfer.

If ownership of the planned unit development site, or a part thereof, is transferred, the special permit shall be deemed revoked, unless the Planning Commission shall approve transfer of the permit to the successor in interest in the development site. A mortgaging of the development site, or a part thereof, shall not constitute a transfer of ownership within the meaning of this section. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

(g) CONSTRUCTION, OCCUPANCY

25-7-77. Construction; completion.

The proposed construction shall begin within twelve (12) months after approval of the application by the Planning Commission. A minimum of fifty (50) percent, in terms of cost, of the total construction (including improvements other than buildings) shown on the approved plan shall be completed within a period of two (2) years following approval; otherwise, approval of the plan will expire. The period of time for completion of the development may be extended from time to time by

the Planning Commission, upon showing of good cause by the applicant for the permit. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-78. Grading; notice; inspection; certification.

The permittee or his or her agent shall notify the Code Administrator II of the City when the grading is ready for final inspection. Final approval of the grading shall not be given until all grading work and all drainage facilities and their protective devices and all erosion control measures have been completed in accordance with the final approved grading plan, and required reports and core samples, if any required, have been submitted. After final inspection and making a determination that the work completed is in accordance with the final approved grading plan, the Code Administrator II shall issue a written certification to that effect. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-79. Landscaping; notice; inspection; certification.

The permittee or his or her agent shall notify the Development Services Director when the landscaping is ready for final inspection. Final approval of the landscaping shall not be given until all landscaping work, including installation of all plant material and irrigation system, if any, has been completed in accordance with the final approved landscape plan. After final inspection and making a determination that the work completed is in accordance with the final approved landscape plan, the Development Services Director shall issue a written certification to that effect. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-80. Occupancy; permit.

No unit in a planned unit development may be occupied until:

- (1) the Development Services Director or his or her authorized agent has inspected the project and found that all conditions of the special permit have been completed with, and
 - (2) an occupancy permit has been issued by the Director or his or her authorized agent.
- (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-7-81

(1) Applicability. The regulations in this subdivision (f) of this Article apply to Tiny Home Community Planned Unit Developments.

(2) Scope. With respect to such developments, these regulations supercede all other regulations in this Article, and in other Articles of this Chapter, which are in conflict with these regulations. Except in cases of such conflict, or in situations where such other regulations clearly are inapplicable (because clearly inappropriate) to Tiny Home Community Planned Unit Developments, such other regulations, otherwise applicable, apply also to such developments.

(3) Purpose. The purpose of the regulations in this subdivision (f) is to permit the planning, construction, and occupancy of Tiny Home Community Planned Unit Developments in accordance with standards for Tiny Houses, and for accessory buildings and lands, containing adequate parking facilities, open spaces, recreation facilities, pedestrian walkways and other amenities which are not

required or, as the case may be, not permitted under other provisions of this Article, or other Articles in this Chapter.

(Ord. 4199, 2016)

25-7-82 Definition of Tiny House, lots; area.

A Tiny House is a residential structure on a permanent foundation with a minimum of 200 square feet and constructed according to all building and life safety codes. A Tiny House on wheels must be licensed as a recreational vehicle under the laws and regulations of the State of Nebraska and then can be placed wherever a recreational vehicle can be placed, however, a Tiny House on wheels cannot be lived in year around. To be lived in year around, the Tiny House must be taken off wheels and affixed to a permanent foundation.

Tiny House sites in a Tiny Home Community Planned Unit Development must have a site area with a minimum of 2,850 square feet and a minimum width of thirty (30) feet.
(Ord. 4199, 2016)

25-7-83 Site; area; frontage and density.

A Tiny Home Community Planned Unit Development shall be not less than three acres in area, and shall have a frontage on a dedicated street of not less than two hundred (200) feet. The density of Tiny Home Community Planned Unit Development shall not exceed ten (10) units per gross acre. Provided, however, the City may approve a smaller site if it is part of a redevelopment site and meets the intent of this Article.
(Ord. 4199, 2016)

25-7-84 Setbacks.

The following minimum yard setbacks shall be maintained in each Tiny Home Community Planned Unit Development:

(1) Public street frontage: On that part of a Tiny Home Community Planned Unit Development which is adjacent to a major street, a minimum setback of twenty (20) feet shall be maintained. On that part of such development which is adjacent to a secondary street or a street with a lower classification, a minimum setback of fifteen (15) feet shall be maintained.

(2) Interior lot lines: A minimum setback from interior lot lines of ten (10) feet shall be maintained.
(Ord. 4199, 2016)

25-7-85 Accessory buildings.

All accessory buildings and structures in a Tiny Home Community Planned Unit Development shall be:

(1) Located to the rear of the Tiny House.
(2) At least three (3) feet from the rear lot line if the line is a common lot line with an abutting lot.

(3) At least two (2) feet from the interior side lot line and if the lot is a corner lot, the accessory building shall not protrude beyond the tiny house into the front yard abutting the side street.

(4) Any detached accessory building shall be situated not less than five (5) feet from the Tiny House.
(Ord. 4199, 2016)

25-7-86 Off-street parking.

Two (2) off-street parking spaces shall be provided on each Tiny House site.
(Ord. 4199, 2016)

25-7-87 Other requirements.

To insure the residential character of a Tiny Home Community Planned Unit Development, and to minimize adverse effects on adjacent properties, the following additional requirements shall be observed:

- (1) Tiny Houses shall be affixed to permanent foundations.
- (2) Tiny Houses must meet all building and life safety codes, minimum square footage requirements, height requirements, including kitchen and bathroom with minimum clearances for all fixtures and have a fire suppression system suitable for a dwelling unit of its size.
- (3) Tiny Houses must be connected to utilities with separate water services and sewer services and meters for each Tiny House.
- (4) A Tiny Home Community Planned Unit Development may be allowable in any residential zone as long as they meet the requirements set forth in this Article.
(Ord. 4199, 2016)

ARTICLE 8

HOME OCCUPATIONS

Section

<u>25-8-1</u>	<u>Article; scope.</u>
<u>25-8-2</u>	<u>R, A Zones; household members; exceptions.</u>
<u>25-8-3</u>	<u>R (except R-1), A Zones; employees; conditions.</u>
<u>25-8-4</u>	<u>Other zones; conditions.</u>
<u>25-8-5</u>	<u>Building; requirements.</u>
<u>25-8-6</u>	<u>Vehicles; R, A Zones; restrictions.</u>
<u>25-8-7</u>	<u>Certificate of occupancy; required; exceptions, conditions.</u>

25-8-1. Article; scope.

The regulations in this Article apply to home occupations. (Ord. 3639, 2000)

25-8-2. R, A Zones; household members; exceptions.

The following home occupations may be conducted in an R or A Zone if carried on solely by one or more members of the household: stenographic and secretarial work; clerical or bookkeeping work

or draftsmanship which is solely incidental to any other home occupation mentioned in this section, or to an occupation carried on outside the premises by a member of the household; writing; telephone, radio or televised communications; sewing; knitting; cooking; arts activities; indoor instruction of groups not exceeding ten (10) persons in arts, crafts or recreational skills, and incidental use of equipment and materials not incompatible with residential use of zoned area; emergency medical treatment; performance of religious or civil rites; and occasional business or professional meetings, consultations or conferences. Provided, the business of telephone, radio or televised communications may be carried on by one (1) or more members of the household and not to exceed at any one (1) time more than one (1) employee who is not a member of the household. (Ord. 3639, 2000)

25-8-3. R (except R-1), A Zones; employees; conditions.

Any other home occupation may be conducted in an R (except R-1 or A Zone, if carried on solely by one (1) or more members of the household and not to exceed more than two (2) employees who are not members of the household, and if the occupation does not create a health or safety hazard, noise annoying to a person of average sensibilities residing in an R or A Zone, noxious odors, increased pedestrian or vehicular traffic in an R or A Zone, or any other conditions injurious to the peace or quiet of an R or A Zone. Provided, ambulance service may be carried on by one (1) or more members of the household and not to exceed at any one time more than two (2) employees who are not members of the household; provided, further, the restriction in this section with respect to increased pedestrian or vehicular traffic shall not apply to nursery schools, private tutoring or music instruction, or to traffic consisting of permitted vehicles operated by the persons carrying on the home occupation. (Ord. 3639, 2000)

25-8-4. Other zones; conditions.

A home occupation may be conducted in any other zone if the occupation is not injurious to the public health or safety and is not otherwise prohibited by ordinance or other law. (Ord. 3639, 2000)

25-8-5. Building; requirements.

A home occupation may be carried on only within a building, except as otherwise provided in this section. No building may be remodeled, added to, or otherwise altered in such a manner as to diminish or otherwise alter the residence character of the structure. Access to that part of a dwelling used for a home occupation may be had only through an entrance used also as an entrance to the part of the building occupied as a dwelling. The Planning Commission may issue a special permit authorizing photographic sessions to be conducted by a commercial photographer outdoors on residential premises occupied by the photographer; the permit may include authorization for such work to be done, also, by photographer business associates or employees of the photographer. (Ord. 3639, 2000)

25-8-6. Vehicles; R, A Zones; restrictions.

No commercial type vehicle may be used in carrying on a home occupation in R-1 Zone. No commercial-type vehicle may be used in carrying on a home occupation in any other R zone or in an A zone, except not to exceed one (1) ambulance or two (2) panel or pickup trucks, or a tow truck operated by a person holding a permit therefor issued by the Police Chief under Chapter 21, Article 6. (Ord. 3639, 2000)

25-8-7. Certificate of occupancy; required; exceptions, conditions.

An application for a certificate of occupancy to conduct a home occupation must be made to the Planning and Building Director in writing in accordance with Article 16 of this Chapter, except that:

- (1) section 25-16-3 shall not apply,
- (2) no certificate of occupancy to conduct a home occupation shall be required in respect of the following activities: stenographic and secretarial work; clerical or bookkeeping work or draftsmanship which is solely incidental to a home occupation or to an occupation carried on outside the premises by a member of the household; writing; telephone, radio or televised communications; sewing; knitting; cooking; art work; emergency medical treatment; performance of religious or civil rites; and occasional business or professional meetings, consultations or conferences; and
- (3) nursery schools shall not be required to comply with this section, but shall comply with Article 16 of this Chapter. If the Development Services Director finds that a home occupation would create any conditions prohibited by this Chapter, a certificate of occupancy therefor shall not be issued.(Ord. 3639, 2000)

ARTICLE 9**MOBILE HOMES****Section****(a) GENERAL PROVISIONS**

- 25-9-1 Mobile homes; occupancy; location.
- 25-9-2 Mobile homes; natural gas lines.
- 25-9-3 Mobile homes; mechanical systems.
- 25-9-4 R-6 Mobile Home Zone; requirements; general.

(b) MOBILE HOME PARKS

- 25-9-7 Lots; numbering.
- 25-9-8 Drives; connection to streets, name, improvement, maintenance.
- 25-9-9 Sidewalks; requirements; obstruction.
- 25-9-10 Drainage; required.
- 25-9-11 Driveways; drainage; permit.
- 25-9-12 Utilities; lines & facilities, water supply, sewage disposal & plumbing, electrical system.
- 25-9-13 Fire hydrants; location.
- 25-9-14 Service buildings; recreation facilities.
- 25-9-15 Buildings; responsibility.
- 25-9-16 Solid waste; containers.
- 25-9-17 Fuel tanks, drums, storage.
- 25-9-18 Park office; register.
- 25-9-19 License; certificate of occupancy; required.

<u>25-9-20</u>	<u>License; application; form; fee.</u>
<u>25-9-21</u>	<u>Application; park plan; submission; fee.</u>
<u>25-9-22</u>	<u>Certificate of occupancy; issuance.</u>
<u>25-9-23</u>	<u>Mobile homes; placement; restrictions.</u>
<u>25-9-24</u>	<u>Additions; permit.</u>
<u>25-9-25</u>	<u>Licensee; duty; generally.</u>
<u>25-9-26</u>	<u>License violations; notice to cease.</u>
<u>25-9-27</u>	<u>License; revocation; suspension; grounds.</u>
<u>25-9-28</u>	<u>License; revocation; suspension; procedure.</u>
<u>25-9-29</u>	<u>License; issuance; after revocation, suspension.</u>
<u>25-9-30</u>	<u>Nonconforming parks; defined; requirements; license.</u>
<u>25-9-31</u>	<u>Lessees; agents; provisions applicable.</u>

(a) GENERAL PROVISIONS

25-9-1. Mobile homes; occupancy; location.

No person shall occupy any mobile home except in R-6 Mobile Home Zone, R-7 Mobile Home Zone, or in a mobile home park which is licensed under this Article. Provided, a mobile home may be occupied for business or residential use outside such Zones or a licensed mobile home park as follows:

- (1) if mounted upon a permanent type foundation and it shall conform to all applicable requirements of the building, electrical, plumbing and zoning ordinances and other ordinances of the City,
- (2) when placed in a travel trailer park and occupied as a residence or the park office by the caretaker or owner of the park (not to exceed, however, one such unit),
- (3) when used as a field office during construction, or
- (4) when displayed for sale on a mobile home sales lot or at a mobile home manufacturing plant, in which latter situations one such unit may be occupied for residential purposes or as a mobile home sales office. (Ord. 3639, 2000)

25-9-2. Mobile homes; natural gas lines.

Natural gas lines shall not be installed on or above the surface of the ground under or adjacent to mobile homes. (Ord. 3639, 2000)

25-9-3. Mobile homes; mechanical systems.

All mobile home mechanical systems shall comply with all ordinances of the City and laws of the State of Nebraska which are applicable to systems of that type. (Ord. 3639, 2000)

25-9-4. R-6 Mobile Home Zone; requirements; general.

A mobile home and a mobile home lot in an R-6 Mobile Home Zone shall conform to all of the requirements as described below:

- (1) Lots; area; setbacks. A mobile home and mobile home lot in the R-6 Mobile Home Zone shall conform to the minimum lot and yard requirements for single family dwellings as specified in the regulations for the R-1a single Family Zone, except that the minimum lot size shall be sixteen thousand six hundred forty (16,640) square feet and the minimum interior side setback shall be twelve

(12) feet.

(2) Height. The height restrictions in the R-1 a Single Family Zone shall apply also to the R-6 Mobile Home Zone.

(3) Principal uses, structures. Any principal use and structure permitted in R-1 a Single Family Zone shall be permitted in R-6 Mobile Home Zone.

(4) Accessory uses, structures. Accessory uses and structures permitted in R-1 a Single Family Zone and those normally appurtenant to such uses and structures shall be permitted in R-6 Mobile Home Zone; provided:

- a. attached carports, porches, or similar structures shall be constructed of the same basic materials as the mobile or modular home;
- b. a detached accessory building placed on a lot with a standard mobile home shall not be required to be to the rear of the mobile home, and
- c. accessory structures shall not be located in any of the setback areas.

(5) Foundations; anchors; storage. A mobile home in R-6 Mobile Home Zone shall be placed on a permanent foundation of concrete block, poured reinforced concrete, pier type construction or other comparable foundations which meet the minimum standards of the City's building code for single family dwelling building foundations. The permanent foundation should be adequate for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation or overturning. Anchors and tie downs shall be placed at least at each corner of the mobile home and at intervals not to exceed twenty four (24) feet. Tie-downs shall be of the strap type (Type 1, Class B, Grade 1 steel straps, 1 1/4 inches wide and 0.035 inches thick, sometimes marked "Federal Specification QQS-781-F") and shall run over or through the roof from an acceptable ground anchor. The ground anchor shall be constructed to resist a force equal to or exceeding a working load of three thousand one hundred fifty (3,150) pounds. Unless the foundation is continuous, there shall be installed between the permanent segments a non-combustible skirt. No combustible material shall be stored under a mobile home. (Ord. 3639, 2000)

(b) MOBILE HOME PARKS

25-9-7. Lots; numbering.

Each mobile home park lot shall be numerically designated for address and mail purposes. (Ord. 3639, 2000)

25-9-8. Drives; connection to streets, name, improvement, maintenance.

1. Connection to streets. The interior drive system within a mobile home park shall connect to public streets at two (2) or more points.
2. Name. All mobile home park drives shall have identification names corresponding to those shown on the plan submitted by the owner for approval.
3. Improvement. Interior mobile home park drives shall be improved forty (40) feet from back of curb to back of curb. All such drives shall be constructed to a minimum standard equivalent to two (2) course bituminous penetration surface placed on a six (6) inch stabilized base course with concrete curb and gutter.
4. Maintenance. All mobile home drives shall be maintained by the owner in a safe and reasonably usable condition at all times.

25-9-9. Sidewalks; requirements; obstruction.

All interior sidewalks shall be of concrete four (4) inches in thickness and four (4) feet in width. Exterior sidewalks shall comply with the requirements of the ordinances of the City pertaining to public sidewalks. No sidewalks shall be obstructed by fences, by parked vehicles, or otherwise. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-10. Drainage; required.

All areas of mobile home parks and shall be adequately drained to the mobile home park drives and to public streets or drainage ways. Drainage improvements shall be adequate to contain drainage flow which is reasonably to be anticipated. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-11. Driveways; drainage; permit.

No driveways shall be constructed or drainage construction work shall be done until a permit therefor shall have been obtained from the Development Services Director. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-12. Utilities; lines & facilities, water supply, sewage disposal & plumbing, electrical system.

(1) Utility lines & facilities. Utility line and facility locations in mobile home parks shall be approved by the utility departments or companies which supply the utility service. All utilities, including but not limited to electricity, sewer, water, gas and cable television, shall be installed underground. The owner of the park shall not permit unqualified personnel to construct, perform any maintenance work on, or connect any utilities in the park. The owner or, if the park is not operated by the owner, the operator of the park shall be responsible for the construction and operation of all utilities in the park.

(2) Water supply. Public water supply for domestic use and fire protection purposes complying with all ordinances of the City shall be provided in every mobile home park.

(3) Sewage disposal; plumbing. Waste matter from all toilets, lavatories and showers in mobile home parks shall be discharged into a public sanitary sewer, or into a private disposal system of a type which complies with this municipal code, and all plumbing, exclusive of the internal plumbing of the mobile homes, shall comply with this municipal code.

(4) Electrical system. The electrical distribution system of a mobile home park shall comply with this municipal code pertaining to electrical systems. Separate meters shall be used on each lot. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-13. Fire hydrants; location.

Each mobile home must be located within three hundred (300) feet of a fire hydrant. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-14. Service buildings; recreation facilities.

If the mobile home park contains a service building or recreation facilities, such building and such facilities shall comply, not only with this municipal code pertaining to buildings or facilities of such types, but also with all rules and regulations of the Nebraska Department of Health. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-15. Buildings; responsibility.

The owner or, if the mobile home park is not operated by the owner, the operator of the park shall be responsible for the construction and maintenance of any building on the park. (Ord. 3639, 2000).

This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-16. Solid waste; containers.

The owner of a mobile home park shall provide containers for the storage of solid wastes awaiting collection. Containers shall be adequate to contain completely all solid wastes that are generated on the premises, and shall conform to all applicable governmental regulations, including, but not limited to, those pertaining to the size, sanitary condition, physical condition, and container covers or other methods of closure. The owner shall provide a location or locations for such containers which will facilitate the collection of solid wastes from the premises. Such locations shall be reasonably accessible to occupants of the park and to collection crews and, when reasonably possible, shall be such as will enable the collection vehicle to remain on a public street or alley and stop directly adjacent to the storage container. Where private drives must be used, sufficient space shall be reserved in the vicinity of parked vehicles to permit easy operation of the collection vehicle without backing the vehicle. The collection points and the containers located thereat shall be kept in a neat and sanitary condition by the owner of the mobile home park. The owner of the park shall promulgate and enforce rules and regulations governing solid waste storage and handling that shall require not less than the requirements of this section and of other applicable governmental regulations. (Ord. 3639, 2000).

This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-17. Fuel tanks, drums; storage.

No fuel oil tanks or drums shall be stored in a mobile home park. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-18. Park office; register.

Every mobile home park shall maintain an office in or adjacent to the park, in which a copy of the park license and certificate of occupancy shall be posted and a register of park occupancy shall be kept. It shall be the duty of the park licensee to keep a register of park occupancy which shall be current at all times and shall contain the following information:

- (1) full name and address in the park of each occupant of mobile home,
- (2) the make, model, serial number, year and dimensions of each mobile home, and
- (3) the date of arrival and departure of each mobile home, and destination of each departing mobile home. (Ord. 3639, 2000).

This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-19. License; certificate of occupancy; required.

It shall be unlawful for any person to establish, operate, and maintain, or permit to be established, operated or maintained, upon any property owned or controlled by such person a mobile home park within, or within two (2) miles of, the corporate limits of the City, without having first secured a license therefor from the City Clerk, and a certificate of occupancy from the Development Services Director, as provided by this subdivision (b) of this Article. (Ord. 3639, 2000).

This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-20. License; application; form; fee.

The application for a license, or renewal of a license, to establish, operate or maintain a mobile home park shall be made on forms furnished by the City Clerk, which shall include the name and address

of the owner in fee of the tract and of the applicant, if other than the owner and a legal description of the premises upon which the park is or will be situated; and shall be signed by the owner of the tract and, if the applicant is other than the owner, by the applicant. The application shall be filed with the City Clerk and shall be accompanied by an annual fee in the amount provided in Chapter 6, Article 6. Provided, the amount of the fee for any license issued less than six (6) months prior to the following May 1st shall be fifty (50) percent of the amount of the regular fee herein prescribed. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-21. Application; park plan; submission; fee.

Where the application is for a license to establish, maintain and operate a mobile home park which was not physically in existence on the date of enactment of this Article, the applicant also shall submit to the City Clerk a plan, in six (6) copies, of the park as proposed to be constructed, maintained and operated, together with a plan filing fee in the amount provided in Chapter 6, Article 6.

(1) Park plan; contents. The plan for a mobile home park, which shall be submitted as provided in this Article, shall include:

- a. name and address of the owner of record, and of any contract purchaser, of the proposed mobile home park,
- b. legal description of the land upon which the mobile home park is, or will be, located
- c. names of all adjacent public streets and roads,
- d. contour topography lines at five (5) foot intervals,
- e. drainage plans, including directions and calculated run-off,
- f. locations and dimensions of all mobile home spaces, utility easements, drives, recreation areas, streets and sidewalks,
- g. building setback lines from public streets and adjacent property lines,
- h. scale of the plan (no smaller than 1" = 100'), with complete dimensions,
- i. numbering system for each individual mobile home space,
- j. density in square feet of mobile home space per gross acre,
- k. dimensional area of the whole of the site,
- l. areas designated for all fixed waste containers, and
- m. location, mechanical plan and building plan of shower and toilet facilities, if to be constructed.

(2) Park plan; approval. Upon the submission of a plan in conformity with the requirements of this Article, the Development Services Director shall examine or cause to be examined the plan and accompanying documents and shall determine whether or not the plan complies with the requirements of this subdivision (b) concerning the matters required to be shown in the plan, and with all other applicable ordinances of the City and all other applicable governmental regulations; provided the City Manager, or the designee of the City Manager, shall determine the adequacy of the grade plan. If the plan shall be so approved, the Director shall endorse such approval on one of the copies of the plan and return such copy to the City Clerk, who shall attach such copy to the application for a mobile home park license. If the Director shall not approve the plan, he or she shall enter an order so determining, and file the same with the City Clerk, who shall attach such order to a copy of the plan remaining on file with the Clerk and shall deliver a conformed copy of the order to the applicant.

(3) Park plan; copy. Prior to the issuance of a license to establish, maintain and operate

the mobile home park, the applicant shall provide to the Development Services Director one reproducible copy of all approved plans for the park.

(4) Taxes; special assessments. No license to establish, operate and maintain a mobile home park shall be issued until there shall have been submitted to the City Clerk a certificate showing that all real and personal property taxes and accrued installments of special assessments on the property to be used for such purpose have been paid.

(5) Issuance. Upon compliance with the requirements of this Article, the City Clerk shall issue to the applicant a license or, as the case may be, a renewal license to establish, operate and maintain the mobile home park shown in the approved plan on file in the office of the City Clerk. Provided, such license shall not entitle the licensee to occupy and operate the park until he or she shall have made application to the Development Services Director for, and there shall have been issued to him by Director, a certificate of occupancy; and the license shall so state.

(6) Expiration; renewal. All licenses to establish, maintain and operate a mobile home park shall expire on April 30th. Application for license renewal shall be made not less than thirty (30) days prior to expiration of the existing license. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to § 14-2-9.

25-9-22. Certificate of occupancy; issuance.

No certificate of occupancy shall be issued in respect of a mobile home park until after a license to establish, maintain and operate the park has been issued as required by this subdivision (b) of this Article and, except in the case of a nonconforming mobile home park as defined in Chapter 25, Article 2, until all improvements required by this subdivision (b) have been completed. A copy of the certificate of occupancy, when issued, shall be maintained on file in the office of the City Clerk. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to § 14-2-9.

25-9-23. Mobile homes; placement; restrictions.

No mobile home may be placed on an individual mobile home space which does not front on an improved street or drive or with respect to which not all of the required improvements have been completed. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to § 14-2-9.

25-9-24. Additions; permit.

No additions increasing the floor area of mobile homes within a mobile home park shall be constructed unless the materials, finish and design of the added part are substantially the same as those of the mobile home, the quality of construction is equal to, or better, than that of the mobile home, and the addition would not increase the density of the mobile home park beyond seven (7) dwelling units per gross acre. No such construction may be commenced until a permit therefor shall have been issued by the Development Services Director pursuant to an application made by the owner of the mobile home on a form prescribed by the Director. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to § 14-2-9.

25-9-25. Licensee; duty; generally.

It shall be the duty of the person to whom a license to establish, maintain and operate a mobile home park has been issued to comply, and to effect compliance by all other persons, with all of the requirements of this subdivision (b) of this Article. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to § 14-2-9.

25-9-26. License violations; notice to cease.

If it shall appear to the Development Services Director that the holder of a license to establish, maintain and operate a mobile home park is violating any provision of this subdivision (b) of this Article, the Director shall notify such holder in writing to cease and desist from such violation within a reasonable period of time to be specified in the notice. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-27. License; revocation; suspension; grounds.

A willful, or willfully negligent, failure on the part of a holder of a license to establish, maintain and operate a mobile home park, to comply with any provision of this subdivision (b) of this Article, or any failure to comply with an order of the Development Services Director to cease and desist from a violation of such provisions shall constitute grounds for revocation or suspension of the license by the Director as hereinafter provided. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-28. License; revocation; suspension; procedure.

If it shall appear to the Development Services Director that there has occurred on the part of a holder of a license to establish, maintain and operate a mobile home park a failure of compliance of the type described in section 25-9-26 of this Article, the Director shall:

- (1) enter a written finding that it so appears, which finding shall specify the apparent failure.
- (2) set for hearing the question whether such failure has occurred and the license should not be revoked or suspended because of the failure, which hearing shall be held not less than twenty-one (21) days after service of a notice upon the holder of the license as hereinafter provided, and
- (3) serve or cause to be served upon the holder of the license personally, or by certified mail addressed to the holder at his last known business address, a written notice of such finding and of such hearing. If, after such notice and such a hearing, the Director finds that such a failure of compliance on the part of the holder of the license has occurred, and that future compliance by the holder of the license with all of the provisions of this subdivision (b) of this Article is not reasonably to be anticipated, the Director shall enter an order so determining and revoking the license, or, alternatively, if the Director finds that future compliance by the holder of the license with all of the provisions of this subdivision (b) of this Article reasonably is to be anticipated, the Director shall enter an order so determining and, in the latter event may suspend the license, either with respect to the whole of the mobile home park or with respect to only a specified part thereof, for a period not to exceed ninety (90) days. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-29. License; issuance; after revocation, suspension.

Anything in this subdivision (b) of this Article to the contrary notwithstanding, no license to establish, maintain or operate a mobile home park shall be issued to the holder of a license which has been revoked by the Development Services Director, or which has been suspended by the Director and the suspension of which has not expired, or, if the holder is an individual, to the spouse of the holder or any firm or corporation in which the holder owns an interest. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-30. Nonconforming parks; defined; requirements; license.

Any mobile home park which is physically in existence on the date of adoption of this Article, but which does not comply with all applicable provisions of this Article, shall be considered a

nonconforming mobile home park. Such nonconforming mobile home park shall conform to:

(1) the provisions of Chapter 23 of the municipal code as such Chapter existed on the date of enactment of this Article, and

(2) the requirements of sections 25-9-17 through 25-9-20 and 25-9-24 of this Article. Any land area added to a nonconforming mobile home park shall conform to all requirements of this Article. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-9-31. Lessees; agents; provisions applicable.

The provisions of this subdivision (b) of this Article shall apply to lessees and to agents of owners or lessees of mobile home parks, as well as to the owners thereof, except where, and to the extent that, the nature of the subject matter, or the context, is such that the provision clearly is not applicable to lessees or, as the case may be, to agents of owners or lessees of such parks. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

ARTICLE 10

TRAVEL TRAILERS

(a) GENERAL PROVISIONS

Section

25-10-1 Travel trailers; occupancy; location.

25-10-2 Same; provisions applicable.

(b) TRAILER PARKS

25-10-3 Trailer parks; provisions applicable.

25-10-4 Trailer spaces; size.

25-10-5 Sewer facilities; requirements.

25-10-6 Electrical system; requirements.

25-10-7 Service building; required.

25-10-8 Trailer spaces; occupancy; duration.

(a) GENERAL PROVISIONS

25-10-1. Travel trailers; occupancy; location.

No person shall occupy any travel trailer outside a trailer park which is licensed under this Article. (Ord. 3639, 2000)

25-10-2. Same; provisions applicable.

The provisions of subdivision (a) of Article 9 of this Chapter, except section 25-9-1, shall be applicable, also, to travel trailers. (Ord. 3639, 2000)

(b) TRAILER PARKS

25-10-3. Trailer parks; provisions applicable.

The provisions of subdivision (b) of Article 11 of this Chapter, except sections 25-9-11(4), 25-9-13 and 25-9-23, shall be applicable, also, to travel trailer parks and to travel trailers in travel trailer parks. (Ord. 3639, 2000)

25-10-4. Trailer spaces; size.

All spaces in a trailer park for the parking of travel trailers shall be not less than twenty (20) feet by sixty (60) feet in size. Subject to such restriction, the size of such spaces shall be determined by the owner of the trailer park. (Ord. 3639, 2000)

25-10-5. Sewer facilities; requirements.

Sewer facilities for travel trailers, if provided in a trailer park, shall conform to the provisions of the municipal code pertaining to sewers. (Ord. 3639, 2000)

25-10-6. Electrical system; requirements.

A system for furnishing electric power to travel trailers, if constructed and if power is provided therefrom to such trailers, shall conform to this municipal code. (Ord. 3639, 2000)

25-10-7. Service building; required.

A service building shall be provided for all travel trailers in a trailer park. Such building and the facilities therein shall comply, not only with the following requirements, but also with the provisions of this municipal code pertaining to buildings or facilities of such types, and with all rules and regulations of the Nebraska Department of Health.

(1) Construction. The service building shall be of permanent type construction and shall be properly protected from damage by ordinary uses and by decay, corrosion, termites and other destructive elements. Exterior portions shall be of such materials, and be so constructed and protected, as to prevent entrance or penetration of moisture and weather.

(2) Laundry, sanitary facilities. The service building shall contain laundry facilities and separate shower facilities. It also shall contain a minimum of three (3) flush toilets and three (3) lavatories for each sex, and three urinals for the male sex, per each one hundred (100) travel trailer spaces, or part of such number. The service building shall be located not more than two hundred (200) feet from any travel trailer.

(3) Walls; partitions; ventilation. All rooms containing sanitary or laundry facilities shall have sound-resistant walls extending to the ceiling between male and female sanitary facilities. Walls and partitions around showers, bathtubs, lavatories and other plumbing fixtures shall be constructed of dense, nonabsorbent, waterproof material, or be covered with moisture-resistant material. All such rooms shall have not less than one (1) window that can be easily opened, or a mechanical device that will adequately ventilate the room.

(4) Toilets; shower stalls. Toilets shall be located in separate compartments equipped with self-closing doors. Shower stalls shall be of the individual type. Rooms containing toilets or showers shall be screened to prevent direct view of the interior when the exterior doors of the building are open.

(5) Water. Hot and cold water shall be furnished to every lavatory, sink, bathtub, shower and laundry fixture, and cold water shall be furnished to every water closet and urinal, in a service building.

- (6) Illumination. Illumination levels in service buildings shall be maintained as follows:
- a. general task areas shall be illuminated by not less than five (5) foot-candles.
 - b. the laundry room work area shall be illuminated by not less than forty (40) foot-candles, and
 - c. the area in front of mirrors in the toilet rooms shall be illuminated by not less than forty (40) foot-candles. (Ord. 3639, 2000)

25-10-8. Trailer spaces; occupancy; duration.

No travel trailer shall be permitted to occupy a parking site in a trailer park for a period in excess of fifteen (15) days from the first date of occupancy. (Ord. 3639, 2000)

ARTICLE 11

RIGHT-OF-WAY LINES

Section

<u>25-11-1</u>	<u>Special right-of-way lines; established.</u>
<u>25-11-2</u>	<u>Special right-of-way lines; Planning Commission.</u>
<u>25-11-3</u>	<u>Special right-of-way lines; hearing; notice.</u>
<u>25-11-4</u>	<u>Special right-of-way lines; City Council.</u>
<u>25-11-5</u>	<u>Building permit; restriction.</u>
<u>25-11-6</u>	<u>Setback lines; measurement.</u>

25-11-1. Special right-of-way lines; established.

To facilitate future widening or re-aligning of existing major streets and the establishing of major streets in the future, special street right-of-way lines shown on the maps referred to in Article 1 (as originally enacted or hereafter amended) of this Chapter, are established in this Article 11. Such special street right-of-way lines are established in the exercise, and to the extent of the City's zoning power only, and nothing in this Chapter shall be construed to constitute the establishing or dedication of a public street, or the taking of private property for that purpose. (Ord. 3639, 2000)

25-11-2. Special right-of-way lines; Planning Commission.

The Planning Commission may initiate proceedings, or hear and determine applications, to establish additional special street right-of-way lines for the purpose of facilitating future widening or re-aligning of existing major streets, or the establishing of major streets in the future. (Ord. 3639, 2000)

25-11-3. Special right-of-way lines; hearing; notice.

A proposal to establish additional special street right-of-way lines shall be set for hearing before the Planning Commission, and notice of the hearing shall be published once in a newspaper of general circulation in the City not less than seven (7) days before the hearing. (Ord. 3639, 2000)

25-11-4. Special right-of-way lines; City Council.

When the Planning Commission has made a recommendation to the City Council concerning the establishment of additional right-of-way lines, the City Council shall set the proposal for hearing and notice of the hearing shall be given as required in the case of other proposals to amend the City's zoning ordinances. (Ord. 3639, 2000)

25-11-5. Building permit; restriction.

After the Planning Commission shall have caused notice of a hearing to be published as provided in section 25-11-3, and prior to any final action on the proposal by the City Council, no building permit may be issued for the construction of a building or structure which, if constructed in accordance with the plans on which the building permit is sought, would violate any proposed or recommended special street right-of-way line if adopted by the City Council in such proceedings. Nor may any public improvement or utility facility be installed during this period unless the City Council shall specifically authorize or approve the same; provided, nothing in this section shall be construed in such manner as to impair the obligation of contracts of privately owned public utilities or to constitute the taking of property of such utilities. (Ord. 3639, 2000)

25-11-6. Setback lines; measurement.

If a special street right-of-way line has been or is established for any lot or tract of land subject to this Chapter, a required setback must be measured from such special street right-of-way line. (Ord. 3639, 2000)

ARTICLE 12

NONCONFORMING USES

Section

<u>25-12-1</u>	<u>Article; scope.</u>
<u>25-12-2</u>	<u>Nonconforming use; requirements; general; burden to show facts.</u>
<u>25-12-3</u>	<u>Area requirements; compliance; required.</u>
<u>25-12-4</u>	<u>Building; structure; completion.</u>
<u>25-12-5</u>	<u>Building or structure; repair.</u>
<u>25-12-6</u>	<u>Building or structure; enlargement; moving.</u>
<u>25-12-7</u>	<u>Building or structure; damage.</u>
<u>25-12-8</u>	<u>Building or structure; low value; limitation of time.</u>
<u>25-12-9</u>	<u>Building or structure; different nonconforming use.</u>
<u>25-12-10</u>	<u>Vacant property; limitation of time.</u>
<u>25-12-11</u>	<u>Residence buildings; exceptions.</u>
<u>25-12-12</u>	<u>Manufactured homes; exception.</u>
<u>25-12-13</u>	<u>Floodways; uses.</u>
<u>25-12-14</u>	<u>Same; structure; enlargement; alteration.</u>
<u>25-12-15</u>	<u>Feedlots; corrals.</u>
<u>25-12-16</u>	<u>Lot; nonconforming.</u>

25-12-1. Article; scope.

The provisions of this Article govern all nonconforming uses. (Ord. 3639, 2000)

25-12-2. Nonconforming use; requirements; general; burden to show facts.

Any use of a lot or tract of land which existed, and any use of a building or structure which was in existence or the construction of which had begun, on the date when this Chapter was enacted, and which was lawful immediately prior to the enactment of this Chapter, constitutes a nonconforming use and may be continued although such use fails to conform to regulations provided in this Chapter, except as otherwise provided in this Article as originally enacted or hereafter amended.

The burden to show the facts necessary to establish the existence of a nonconforming use, and of a right to continue the same, shall be upon the person asserting that the lot, tract of land, building or structure enjoys such status. (Ord. 3639, 2000)

25-12-3. Area requirements; compliance; required.

The failure of a building in use to comply with any yard, court, lot area, lot area per dwelling unit, or lot coverage required by this Chapter is not a nonconforming use. (Ord. 3639, 2000)

25-12-4. Building; structure; completion.

Any building or structure, the construction or planned use of which does not conform to the requirements of this Chapter at the time when this Chapter was enacted, but a building permit for which had been issued and the construction of which had been commenced at the time when this Chapter was enacted, may be completed in accordance with the plans in respect which the building permit was issued if the construction is completed within one (1) year after the building permit was issued. In such event such planned use of the building or structure is a nonconforming use. (Ord. 3639, 2000)

25-12-5. Building or structure; repair.

A building or structure whose use is nonconforming shall be kept repaired in sound condition. (Ord. 3639, 2000)

25-12-6. Building or structure; enlargement; moving.

A building or structure whose use is nonconforming may not be enlarged or increased to occupy more area than the building occupied on its lot or tract of land when this Chapter was enacted, nor may its nonconforming use be enlarged or increased within the building or structure; provided, if the only nonconforming use is a legal nonconforming use in relation to setback requirements, the existence of such nonconforming use shall not prohibit:

- (1) the construction of an addition to a building or structure, or the construction of an accessory building, which does not otherwise fail to conform to the requirements of this Chapter, or
- (2) the enlargement or increase of a use within the building or structure which does not otherwise fail to conform to the requirements of this Chapter.

Neither may a building or structure whose use is nonconforming be moved in whole or in part to any other part of a lot or tract of land it occupies so long as any part of its use is nonconforming. (Ord. 3639, 2000)

25-12-7. Building or structure; damage.

A building or structure whose use is nonconforming, and which is damaged or partially destroyed by

fire, flood, wind, earthquake, or any other calamity so that its fair market value after the damage or partial destruction is more than fifty (50) percent of its appraised value established for tax purposes immediately before the damage or partial destruction, may be restored to its former condition and its nonconforming use continued if restoration is begun within one (1) year after the damage or partial destruction and diligently continued to completion. If the fair market value of such a building or structure after such damage or partial destruction is less than fifty (50) percent of its appraised value established for tax purposes immediately before the damage or partial destruction, it may be repaired, restored, or reconstructed only if after repair, restoration, or reconstruction, the building or structure complies with all requirements of this Chapter. Provided, any repair, restoration of a building or structure must comply fully with the provisions of this municipal code regulating such work. (Ord. 3639, 2000)

25-12-8. Building or structure; low value; limitation of time.

The nonconforming use of land on which at the time of enactment of this Chapter there is no building having an assessed valuation for tax purposes in excess of seven hundred fifty dollars (\$750.00) shall be converted to a use conforming with this Chapter within a period of five (5) years if located within an R zone, or within three (3) years if located within an OP, C or M Zone. (Ord. 3639, 2000)

25-12-9. Building or structure; different nonconforming use.

The use of any building or structure which is nonconforming may not be changed to a different nonconforming use, except one that is of the same or a more restrictive classification. (Ord. 3639, 2000)

25-12-10. Vacant property; limitation of time.

A lot, tract of land, building, or structure, or any combination thereof, whose use is nonconforming and which becomes and remains vacant and unoccupied for a continuous period of one year may only be re-occupied for a use that conforms to all the requirements of this Chapter. (Ord. 3639, 2000)

25-12-11. Residence buildings; exceptions.

Anything in any other provision of this Article to the contrary notwithstanding, the restrictions in sections 25-15-6, 25-15-7 and 25-15-10 shall not apply to a residence use if there is no increase in the number of dwelling units in such residence building unless such use is in a Selected Floodway District or a Flood Plain District. (Ord. 3639, 2000)

25-12-12. Manufactured homes; exception.

Manufactured homes shall comply with the provisions in this Article pertaining to buildings; provided, a manufactured home may be replaced at any time by a more recent model home; provided, further, if the manufactured home is in a Selected Floodway District or Flood Plain District, it shall comply with all of the provisions of Article 19, as amended, applicable to manufactured homes. (Ord. 3639, 2000)

25-12-13. Floodways; uses.

Anything in any other provision of this Article to the contrary notwithstanding, a use of any structure or other use of premises in a floodway district which existed and was lawful immediately prior to the enactment of original Article 19, and which still existed on November 12, 1979, may be continued

even if it was not, and is not, in conformity with all provisions of such original Article or amendments thereof; provided, no such use, if discontinued for a period of one year, may be reestablished. Any use which does not conform to the provisions of original Article 19 or an amendment thereof may not be changed to another nonconforming use. (Ord. 3639, 2000)

25-12-14. Same; structure; enlargement; alteration.

No structure in a floodway district which, although lawful immediately prior to the enactment of original Article 19, is not in conformity with all provisions of such Article 19 as amended may be enlarged or otherwise altered except in conformity with the requirements of such Article as amended; provided, the ground floor area of any structure in existence on June 26, 1978, may be enlarged:

(1) if the enlargement does not exceed twenty-five percent or two hundred fifty (250) square feet, whichever is greater, and

(2) if, in addition, the value of the structure after the enlargement does not exceed one hundred fifty (150) percent of the value of the structure before the enlargement. (Ord. 3639, 2000)

25-12-15. Feedlots; corrals.

Anything in this Article to the contrary notwithstanding, this Article shall not be construed to prohibit:

(1) the expansion of a nonconforming use of a feedlot or corral from the level of use existing at the time of enactment of this section to a level not exceeding the highest level which was attained during the five (5) year period immediately preceding the expansion, providing no part of the feedlot or corral is situated within one thousand (1,000) feet of a nonagricultural residence,

(2) the moving of a nonconforming feedlot or corral which is in use at the time of enactment of this section to a location such that no part of the feedlot or corral is situated within one thousand (1,000) feet of a nonagricultural residence, providing the use thereafter does not exceed the highest level of use of the feedlot or corral which was attained during the five (5) year period immediately preceding commencement of the moving, or

(3) a resumption of the use of a nonconforming feedlot or corral which had been wholly discontinued, providing:

- a. the resumption occurs not more than five (5) years after enactment of this section, or more than five (5) years after the prior use was terminated, whichever is later,
- b. the resumed use does not exceed the highest level of use which was attained during the five (5) year period immediately preceding discontinuance of the use, and
- c. no part of the feedlot or corral is situated within one thousand (1,000) feet of a nonagricultural residence. (Ord. 3639, 2000)

25-12-16. Lot; nonconforming.

A lot of record which was lawfully in existence at the time of the adoption of this Chapter, the width or area, or both, of which is less than the minimum requirement of this Chapter nevertheless may be occupied and used in conformity with all other requirements for its zone if: (1) minimum lot area and minimum lot width are each a minimum of 50% of what would otherwise be required and (2) all yard and lot coverage requirements of this Chapter are met. (Ord. 3971, 2008)

ARTICLE 13

SPECIAL PERMITS

Section

<u>25-13-1</u>	<u>Special permit; nature.</u>
<u>25-13-2</u>	<u>Special permit; standards; procedures; adoption.</u>
<u>25-13-3</u>	<u>Special Permits; issued; when; conditions.</u>
<u>25-13-4</u>	<u>Application; fee.</u>
<u>25-13-5</u>	<u>Application; hearing; notice.</u>
<u>25-13-6</u>	<u>Findings.</u>
<u>25-13-7</u>	<u>Planning Commission; decision; time.</u>
<u>25-13-8</u>	<u>Special permit; pending variance.</u>
<u>25-13-9</u>	<u>Special permit; duration; building permit.</u>
<u>25-13-10</u>	<u>Building permit; certificate of occupancy.</u>
<u>25-13-11</u>	<u>Special permit; transfer; termination.</u>
<u>25-13-12</u>	<u>Perimeter fence; applicant.</u>
<u>25-13-13</u>	<u>Perimeter fence; application fee.</u>
<u>25-13-14</u>	<u>Perimeter fence; findings; bond.</u>
<u>25-13-15</u>	<u>Perimeter fence; term.</u>
<u>25-13-16</u>	<u>Perimeter fence; default; revocation.</u>
<u>25-13-17</u>	<u>Perimeter fence; public ways.</u>
<u>25-13-18</u>	<u>Subdivision identification sign; bond.</u>

25-13-1. Special permit; nature.

A special permit is a permit for a use of a lot, tract of land, building, or structure which is permissible under this Chapter only if authorized by the Planning Commission. (Ord. 3639, 2000)

25-13-2. Special permit; standards; procedures; adoption.

The Planning Commission, before hearing or acting upon any application for a special permit under any provision of this Chapter, shall by resolution adopt standards and procedures to be applied and followed by the Commission for the purpose of equitably and judiciously granting such special permits, which standards and procedures shall be subject to approval by the City Council, all as provided by Nebraska law. Such resolution(s), when adopted, shall govern all proceedings before and by the Planning Commission concerning special permits. The adoption by the Planning Commission of a resolution in the following form:

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SCOTTSBLUFF, NEBRASKA, that the Planning Commission hereby adopts “as the standards and procedures to be applied and followed by it for the purpose of equitably and judiciously granting special permits under Chapter 25 of the municipal code as now existing or hereafter amended” all of the standards and procedures prescribed in such Chapter, as now existing or hereafter amended, concerning the issuance of special permits, shall constitute adoption by the Commission of the standards and procedures required by the statute; and the standards and procedures thus adopted by the Commission shall be deemed to have been approved by the City Council. (Ord. 3639, 2000)

25-13-3. Special Permits; issued; when; conditions.

The Planning Commission may issue a special permit for the use of a lot, tract of land, building, or structure in circumstances and a manner authorized by other Articles of this Chapter if the Commission finds the proposed use:

- (1) provides a service required by the neighborhood or community and is consistent with sound principles of land use,
- (2) will not be injurious to the use of neighboring lots, tracts of land, buildings, or structures,
- (3) will not create special hazards or problems for the area in which it is located,
- (4) is related to and harmonious with the general plan for the area in which it is located, as indicated by this Chapter, and
- (5) otherwise is in accordance with the intents and purposes of this Chapter. The Commission may make the use which is authorized in the special permit subject to reasonable conditions which in the discretion of the Planning Commission are necessary to carry out the intents and purposes of this Chapter. (Ord. 3639, 2000)

25-13-4. Application; fee.

An application for a special permit shall be signed by the owner of the lot, tract of land, building or structure in respect of which the permit is sought and, if the use is proposed by a person other than the owner, by such other person, and shall be filed with the Development Services Director. The application shall be addressed to the Planning Commission and shall contain:

- (1) a description of the lot or tract of land and the building or structure thereon, if there is any, for which the special permit is requested,
- (2) the name or names of the owner or owners,
- (3) a description of the nature of the use for which the special permit is requested,
- (4) a statement of the section of this Chapter which is asserted to authorize the use for which the special permit is requested, and
- (5) a statement of the reason or reasons why the special permit should be issued. The application shall be accompanied by the filing fee provided in Chapter 6, Article 6.

This section shall have no application to applications for special permit to construct and maintain a perimeter fence. (Ord. 3639, 2000)

25-13-5. Application; hearing; notice.

The Secretary of the Planning Commission, at the request of the Development Services Director, shall promptly set the application for public hearing. The Secretary shall give notice of the time, place, and purpose of the hearing in the same manner as notice is required to be given by Sections 19-904 and 19-905, R.R.S. 1943. Any person entitled to notice may waive notice of a hearing in writing. Such waiver must accompany the application. (Ord. 3639, 2000)

25-13-6. Findings.

No special permit shall be issued unless the Planning Commission shall find in writing that there exist as a basis for the permit the facts that under this Chapter authorize issuance of the permit. (Ord. 3639, 2000)

25-13-7. Planning Commission; decision; time.

If the Planning Commission fails to act on an application after three (3) regular meetings of the Commission, the Commission shall be deemed to have issued the special permit effective on the date of the second regular meeting without conditions; provided, if the applicant requests or consents to a continuance of the hearing beyond such date, the preceding provisions of this section shall not apply. (Ord. 3639, 2000)

25-13-8. Special permit; pending variance.

No special permit may be issued while an application for a variance is pending on hearing or determination by the Board of Adjustment or on appeal from its decision. (Ord. 3639, 2000)

25-13-9. Special permit; duration; building permit.

If the use for which a special permit is required also requires a building permit, a special permit issued by the Planning Commission shall expire one (1) year after the day it is issued unless the required building permit is issued within one year after the special permit is issued. (Ord. 3639, 2000)

25-13-10. Building permit; certificate of occupancy.

Neither a building permit nor a certificate of occupancy for a use requiring a special permit may be issued before a special permit is issued by the Planning Commission. If the Commission issues a special permit for a use which requires a building permit or a certificate of occupancy, or both, neither a building permit nor, as the case may be, certificate of occupancy may be issued until a ten (10) day appeal period has expired. (Ord. 3639, 2000)

25-13-11. Special permit; transfer; termination.

A special permit may not be transferred and, if a change of ownership of the lot or tract of land for which the special permit was issued occurs, the special permit shall thereupon terminate. (Ord. 3639, 2000)

25-13-12. Perimeter fence; applicant.

A special permit to construct and maintain a perimeter fence may only be issued to and held by a corporation:

- (1) organized and having perpetual existence under the laws of the State of Nebraska,
- (2) having a registered agent in Scotts Bluff County, Nebraska,
- (3) having under its articles of incorporation power to construct and maintain such a fence,
- (4) which owns the lands or part of the lands on which the fence is to be constructed or, if it does not own any, or owns only a part, of such lands, has a clear legal right to construct and maintain the fence on the lands which it does not own,
- (5) which has entered into covenants in writing with the owners of any lands which the corporation does not own to construct and maintain the entire fence in perpetuity, which covenants shall run with the lands, bind also the corporation's successors, and be in recordable form,
- (6) which has recorded similar covenants with respect to lands which the corporation still owns, and
- (7) which has otherwise complied with the requirements for a special permit prescribed in this Article 13. (Ord. 3639, 2000)

25-13-13. Perimeter fence; application fee.

An application for a special permit to construct and maintain a perimeter fence may be signed only by a corporation which meets or will meet all of the requirements specified in section 25-13-12. The application shall allege, in addition to the matters specified in section 25-13-4, that the corporation has complied, or before issuance of a permit will comply, in full with each of the requirements specified in section 25-13-12, stating the facts with respect to each requirement in such section. The application shall be accompanied by:

(1) a copy, certified by the secretary of the corporation, of the articles of incorporation and any amendments thereto, showing the dates of filing of each with the Secretary of State,

(2) if the fence, or a part thereof, is to be constructed upon lands not owned by the corporation, a list of the names and addresses of the owners of such lands, together with a sample copy of the written covenants which the corporation has entered or will enter into with such owners on behalf of itself, its successors and assigns concerning the construction and maintenance of the fence; and, with respect to the lands of which the corporation still is the record title owner, a sample copy of the written covenants which the corporation has executed and recorded, or will execute and record, whereby the corporation has bound or will bind itself, its successors and assigns to construct and maintain the fence. The application shall also be accompanied by a filing fee in the amount specified in provided in Chapter 6, Article 6. (Ord. 3639, 2000)

25-13-14. Perimeter fence; findings; bond.

If the Planning Commission finds that a special permit to construct and maintain a perimeter fence should issue it may make the special permit, when issued, subject to reasonable conditions, and shall, before a special permit is issued, fix the amount of a bond to be filed by the corporation with the City Clerk of the City, and by him or her approved, prior to issuance of the special permit. The bond shall be executed by the corporation and by a corporate surety authorized to do business in the State of Nebraska. The bond shall be payable to the City to reimburse the City for any damage the City may sustain in the event the corporation, its successors or assigns shall fail to construct and maintain the perimeter fence, or any part thereof, in compliance with the requirements of Article 4, as amended, of Chapter 25 and of this Article, as amended (including, but not limited to, reasonable expense the City may incur in obtaining or attempting to obtain compliance by the corporation, its successors or assigns with such Articles, whether through or without litigation); and the condition of the bond shall be that the corporation, its successors and assigns, shall construct and maintain the perimeter fence in compliance with the requirements of Article 4, as amended, of Chapter 25 and of this Article, as amended; otherwise, the bond shall remain in full force and effect. (Ord. 3639, 2000)

25-13-15. Perimeter fence; term.

The permit shall, in the sound discretion of the Planning Commission, be for a permanent use or for use for a term of years, and regardless shall be subject to the conditions specified in sections 25-13-16 and 25-13-17. (Ord. 3639, 2000)

25-13-16. Perimeter fence; default; revocation.

If the corporation shall fail to construct or to maintain the perimeter fence in compliance with the requirements of Article 4, as amended, of Chapter 25, and of this Article, as amended, the Development Services Director shall so notify the corporation (or as the case may be, its successors or assigns) and the surety company in a writing mailed to each by certified mail addressed to the last

known address of each. If the default shall not have been corrected within ninety (90) days thereafter, the Planning Commission thereafter may, after notice to the corporation, surety company and owners of record of the lands on or adjacent to which the fence, or affected segment of the fence, was constructed, and hearing order the fence repaired, replaced or removed in whole or in part, and either before, after or in the absence of an order to repair, replace or remove the fence, may revoke the special permit in whole or in part. The remedies herein provided shall not be exclusive of, but cumulative to, any other remedies at law or equity which the City or owners of affected lands may have by reason of the presence, nature, condition or absence of the fence, or any part thereof, and resort to one remedy shall not bar a resort to another unless the remedies are inherently mutually exclusive. (Ord. 3639, 2000)

25-13-17. Perimeter fence; public ways.

Anything in this or any other Article of this Chapter to the contrary notwithstanding, any permit that may be issued by the Planning Commission to construct and maintain a perimeter fence within the right-of-way of a public street or alley or other public way which then is outside the corporate limits of the City shall be and remain without prejudice to any rights with respect to such street, alley or other public way which are vested in the public by operation of law; and if such street, alley or public way subsequently shall be annexed to the City, shall be and remain subject to the power of the City Council to order removal of obstructions from any streets, alleys or public ways within the corporate limits of the City. Any permit which the Planning Commission may propose to issue concerning the construction and maintenance of a perimeter fence within the right-of-way of a public street or alley or other public way which then is within the corporate limits of the City shall be and remain subject to the power of the City Council to order removal of obstructions from any streets, alleys or public ways within the corporate limits of the City, and no such permit shall be issued by the Planning Commission prior to authorization of the proposed obstruction by the City Council. Such authorization by the City Council, if granted, shall in terms reserve to the City Council the right subsequently to order the obstruction removed, and may be upon such other terms and conditions as the City Council may prescribe. (Ord. 3639, 2000)

25-13-18. Subdivision identification sign; bond.

If the Planning Commission finds that a special permit to erect and maintain a subdivision identification sign or signs in a residence zone should issue, it may make the special permit, when issued, subject to reasonable conditions, and shall, before a special permit is issued, fix the amount of a bond to be filed by the owner of the sign(s) with the City Clerk of the City, and by him or her approved, prior to issuance of the special permit. The bond shall be executed by the owner and by a corporate surety authorized to do business in the State of Nebraska. The bond shall be payable to the City to reimburse the City for any damage the City may sustain in the event the owner, its successors or assigns shall fail to construct and maintain the sign, or any part thereof, in compliance with the requirements of Article 6, as amended, of Chapter 25 (including, but not limited to, reasonable expense the City may incur in obtaining or attempting to obtain compliance by the owner, its successors or assigns with such Article, whether through or without litigation); and the condition of the bond shall be that the owner, its successors and assigns shall erect and maintain the sign in compliance with the requirements of Article 6, as amended, of Chapter 25; otherwise, the bond shall remain in full force and effect. (Ord. 3639, 2000)

ARTICLE 14

VARIANCES

Special

<u>25-14-1</u>	<u>Application; incident to appeal.</u>
<u>25-14-2</u>	<u>Application; filing; form.</u>
<u>25-14-3</u>	<u>Hearing; determination.</u>
<u>25-14-4</u>	<u>Variance; expiration.</u>
<u>25-14-5</u>	<u>Building permit; issued; when.</u>

25-14-1. Application; incident to appeal.

An application for a variance will be heard by the Board of Adjustment only if the application is made:

- (1) after the appropriate officer or employee of the City shall have denied an application for a building permit or, as the case may be, for a certificate of occupancy in respect of the proposed use which is the subject of the application for a variance; and
- (2) as an incident to an appeal from such a decision, as provided in Article 17. (Ord. 3639, 2000)

25-14-2. Application; filing; form.

The application shall be in writing and filed with the Development Services Director, and may either be incorporated in, or be filed with, the copy of the notice of appeal filed with the Director. The application shall be addressed to the Board of Adjustment and shall state:

- (1) the description of the lot, tract of land, building, or structure for which the variance is sought,
- (2) the name or names of the owner or owners,
- (3) that the Code Administrator II has denied an application for a building permit or, as the case may be, for a certificate of occupancy in respect of the proposed use which is the subject of the application for a variance,
- (4) the nature of the variance sought,
- (5) the exceptional practical difficulty or exceptional and undue hardship to be overcome by a granting of the requested variance, and
- (6) such other information as the Board by rule shall require. (Ord. 3639, 2000)

25-14-3. Hearing; determination.

The Board of Adjustment shall provide by rule for the setting of applications for hearing, which rule shall provide for hearings to be held with reasonable promptness. If the Board fails to act on an application after three (3) regular meetings of the Board, the Board shall be deemed to have granted the requested variance on the day of the third regular meeting date without conditions or modifications; provided, if the applicant requests or consents to a continuance of the hearing beyond such date, the preceding provisions in this sentence shall not apply. (Ord. 3639, 2000)

25-14-4. Variance; expiration.

If a variance is granted for use requiring construction, modification, or alteration of a building or structure for which a building permit is required, the right to such variance shall expire unless the

required building permit is issued within six (6) months after the variance is granted. (Ord. 3639, 2000)

25-14-5. Building permit; issued; when.

If the Board of Adjustment grants an application for a variance in a situation in which a building permit is required, such building permit may not be issued until the statutory period for appeal from the decision of the Board has expired. No building permit may be issued:

- (1) while an application for a variance is pending before the Board, or
- (2) in event the Board denies the application, unless the decision of the Board is reversed by a court. (Ord. 3639, 2000)

ARTICLE 15

REZONING; AMENDMENTS

Section

<u>25-15-1</u>	<u>Initiation; procedures.</u>
<u>25-15-2</u>	<u>Petition; contents.</u>
<u>25-15-3</u>	<u>Planning Commission; referral to.</u>
<u>25-15-4</u>	<u>Planning Commission; hearing; recommendation.</u>
<u>25-15-5</u>	<u>Planning Commission; recommendation.</u>
<u>25-15-6</u>	<u>City Council; hearing; notice.</u>
<u>25-15-7</u>	<u>City Council; decision.</u>
<u>25-15-8</u>	<u>Petition; withdrawal.</u>
<u>25-15-9</u>	<u>Petition; denial.</u>
<u>25-15-10</u>	<u>Permits; certificates; issue; when.</u>
<u>25-15-11</u>	<u>Planned Business Center; general requirements.</u>
<u>25-15-12</u>	<u>Planned Business Center; zone; petition; Tentative Development Plan.</u>
<u>25-15-13</u>	<u>Planned Business Center; Tentative Plan; contents.</u>
<u>25-15-14</u>	<u>PBC Zone; effective; when; condition subsequent.</u>
<u>25-15-15</u>	<u>Final Plan; filing.</u>
<u>25-15-16</u>	<u>Final Plan; form; modification of Tentative Plan.</u>
<u>25-15-17</u>	<u>Final Plan; contents.</u>
<u>25-15-18</u>	<u>Final Plan; approval.</u>
<u>25-15-19</u>	<u>Final Plan; disapproval; reconsideration.</u>
<u>25-15-20</u>	<u>Final Plan; subsequent modification.</u>
<u>25-15-21</u>	<u>Building, improvement plans; conformance.</u>
<u>25-15-22</u>	<u>Building permit; issue; when.</u>
<u>25-15-23</u>	<u>Construction; time; speculation.</u>
<u>25-15-24</u>	<u>Construction; failure to construct.</u>
<u>25-15-25</u>	<u>Time limits; extension.</u>
<u>25-15-26</u>	<u>Reports.</u>
<u>25-15-27</u>	<u>Floodways; amendments; repeal.</u>

25-15-1 Initiation; procedures.

Proposals to amend, supplement, extend, change, modify or repeal any zoning regulation, restriction or condition, or to change any boundary of a zone established by this Chapter may be initiated in any of the following ways:

- (1) on a motion adopted by the City Council or the Planning Commission.
- (2) on a petition addressed to the City Council and filed with the Development Services Director by the owner or owners of fifty (50) percent or more of multiple lots or tracts of land within the area in respect of which the change is proposed and the owners of fifty (50) percent or more of the lots or tracts of land within three hundred (300) feet of the area in respect of which the change is proposed, or
- (3) on a petition addressed to the City Council and filed with the Development Services Director by the owner or owners of a lot or lots, or tract or tracts of land in respect of which the change is requested. The petition shall be accompanied by the filing fee provided in Chapter 6, Article 6. (Ord. 3639, 2000)

25-15-2. Petition; contents.

A petition of the type referred to in subparagraphs (2) and (3) of section 25-15-1 shall contain the following information and allegations:

- (1) legal description of the property involved,
- (2) statement of the petitioner(s) that the proposed use (a) would provide a service required by the neighborhood and/or community and be consistent with sound principles of land use, (b) would not be injurious to the use of neighboring tracts of land, lots or blocks or unplatted land, buildings or structures, (c) would not create special hazards or problems for the area in which it be located, (d) is related to, and would be harmonious and consistent with, the comprehensive development plan for the area in which it would be located, as indicated by this Chapter and the City's adopted comprehensive development plan, and (e) otherwise would be in accordance with the intents and purposes of this Chapter, and
- (3) a statement of reason(s) why the petition should be granted. (Ord. 3639, 2000)

25-15-3. Planning, Commission; referral to.

A proposal made in compliance with section 25-15-1 shall be referred by the City Clerk to the Planning Commission. (Ord. 3639, 2000)

25-15-4. Planning Commission; hearing; recommendation.

The Planning Commission shall hear and consider the proposal at its next regular meeting or at a special meeting, whichever occurs first, but not later than thirty (30) days after the proposal has been referred to it. The Planning Commission shall cause notice to be served upon the board of education of each school district to be affected by the proposal as required by the statutes of Nebraska. (Ord. 3639, 2000)

25-15-5. Planning Commission; recommendation.

The Planning Commission shall make a written recommendation to the City Council within seventy (70) days after the proposal has been referred to the Commission. The Commission may recommend:

- (1) rejection of the proposal entirely,
- (2) approval of the proposal without amendment, or

(3) approval of the proposal with amendments the Commission finds appropriate. Failure of the Commission to act on the proposal within the time specified in this section shall constitute a recommendation of approval of the proposal without amendments; provided, if the applicant requests or consents to a continuance, the preceding provisions of this section shall not apply. (Ord. 3639, 2000)

25-15-6. City Council; hearing; notice.

After the City Council receives the written recommendation of the Planning Commission, or after the time within which the Commission may act expires without action by the Commission, the City Manager shall set the matter for a public hearing at a regular meeting or a special meeting called for that purpose, and shall cause notice of hearing to be given as required by statute. Such notice shall be given by publication thereof in a paper of general circulation in the City at least one time ten (10) days prior to such hearing. Such public hearing shall be held within thirty (30) days after the recommendation of the Commission has been received or are due, whichever occurs first, unless the applicant requests or consents to a continuance or, if there be no applicant, the City Council orders a continuance. A person entitled to notice may waive notice in writing. (Ord. 3639, 2000)

25-15-7. City Council; decision.

After hearing as provided for in this Article, the City Council may:

- (1) deny the proposal,
- (2) grant the proposal, or
- (3) grant the proposal with modifications which were proposed at the public hearing held by the Planning Commission and the public hearing held by the City Council; provided, the City Council may make modifications which were not proposed at the public hearing held by the Planning Commission or the City Council if such modifications would not materially change the sense of the basic proposal which was the subject of the hearings. The grant of a proposal, with or without modifications, shall not effect an amendment of the City's zoning ordinance; such an amendment shall become effective only upon the enactment and publication of an amending ordinance as provided by law. (Ord. 3639, 2000)

25-15-8. Petition; withdrawal.

A petition filed as provided in section 25-15-1 may be withdrawn with permission of either the Planning Commission or the City Council before that body acts on it; provided, if public notice of a hearing on the petition has been given as provided in this Article, such hearing must be held. (Ord. 3639, 2000)

25-15-9. Petition; denial.

If a petition has been denied by the City Council, the same proposal may not be presented again by petition within one (1) year after the date of filing of the petition that was denied, unless either the Planning Commission or the City Council gives special permission for such petition to be re-filed sooner. (Ord. 3639, 2000)

25-15-10. Permits; certificates; issue; when.

No department of the City may issue a building permit, certificate of occupancy or other pertinent permit when a hearing on a proposal, as provided for in section 25-15-1, is pending before either the

Planning Commission or the City Council, or when the action of the City Council is the subject of a pending judicial action, except as is required to repair and maintain any building, structure, lot or tract of land while the proposal is pending. (Ord. 3639, 2000)

25-15-11. Planned Business Center; general requirements.

A proposal to create a PBC Zone, and to construct therein a planned business center, is subject to the requirements of sections 25-15-1 to 25-15-10 and, also, to the additional requirements of the succeeding sections of this Article. It shall be unlawful to construct, maintain, occupy or operate a planned business center not created in accordance with the provisions of this Article. (Ord. 3639, 2000)

25-15-12. Planned Business Center; zone; petition; Tentative Development Plan.

A petition for creation of a Planned Business Center Zone shall be addressed to the City Council and filed with the Development Services Director; shall be accompanied by a Tentative Development Plan (called Tentative Plan in this Article), which shall be filed with the petition; shall request both the creation of a PBC Zone in a described area and approval of the Tentative Plan; and shall be signed by the owner of the lot or lots, or tract or tracts of land located in the proposed PBC Zone. (Ord. 3639, 2000)

25-15-13. Planned Business Center; Tentative Plan; contents.

The Tentative Plan must include:

- (1) a site plan showing the areas to be developed for buildings, the anticipated total gross floor space, the area to be developed for parking, the points of ingress and egress (including access streets where required), and adjustments to be made for abutting lots, tracts of land, and zones,
- (2) an architect's preliminary sketches of buildings and landscaping,
- (3) a statement of the types of businesses and uses proposed, and of the market area to be served, and
- (4) a statement of the ownership in the proposed PBC Zone. (Ord. 3639, 2000)

25-15-14. PBC Zone; effective; when; condition subsequent.

If a proposal to create a PBC Zone is approved by the City Council, with or without amendments, the creation of the PBC Zone is effective when the ordinance approving the proposal becomes effective, subject to a condition subsequent that a Final Development Plan (called Final Plan in this Article) must be submitted to and approved by the City Council as provided in this Article. Upon failure to submit a Final Plan, or if the City Council shall make final findings disapproving a Final Plan, the PBC Zone shall automatically terminate and, if immediately prior to the creation of the zone, the land had been otherwise zoned by an ordinance of the City, the land shall automatically become subject again to such former zoning. (Ord. 3639, 2000)

25-15-15. Final Plan; filing.

Within twenty-four (24) months after the enactment of an ordinance creating a PBC Zone, the owner or owners of the lot or lots, or tract or tracts of land located in the PBC Zone must submit a Final Plan to the City Council for approval. (Ord. 3639, 2000)

25-15-16. Final Plan; form; modification of Tentative Plan.

The Final Plan must conform to the Tentative Plan approved by the City Council. The petitioner may, however, before the City Council acts on the Final Plan file with the Development Services Director a request, addressed to the City Council, for modification of the Tentative Plan as approved. If it shall appear to the City Council that the use of the land in accordance with the Tentative Plan as proposed to be modified may be of a substantially different character, for zoning purposes, from the use of the land in accordance with the Tentative Plan as approved, the City Council, before acting upon the request for modifications, shall order the request referred to the Planning Commission, and thereafter proceedings shall be had upon the request before the Planning Commission and, subsequently, before the City Council as provided in sections 25-15-4 and 25-15-6 of this Article. If a request for modification is approved, with or without changes, by the City Council, the modification shall be incorporated by the petitioner in the Final Plan. (Ord. 3639, 2000)

25-15-17. Final Plan; contents.

In addition to any modifications of the Tentative Plan approved as provided in section 25-15-16, the Final Plan shall include:

- (1) a site plan showing the areas to be developed for buildings, the areas to be developed for parking, the location of pedestrian paths and vehicular roads, the location of ingress and egress (including access streets where required), the location and height of walls, provisions for loading and unloading, the location, size, and number of signs, and the location and types of improvements to be made in relating to the use of abutting lots or tracts of land and other zones,
- (2) architect's sketches of the proposed buildings and landscaping,
- (3) preliminary engineering plans of the improvements to be installed,
- (4) a schedule for planned construction showing the anticipated completion date,
- (5) a statement of the types of businesses and uses proposed to be served, and
- (6) a statement of the ownership of the proposed planned business center. (Ord. 3639, 2000)

25-15-18. Final Plan; approval.

If the City Council finds that the Final Plan conforms to the Tentative Plan as approved by the City Council and any modifications approved in accordance with section 25-15-16, the City Council may approve the Final Plan by resolution. The approval shall be endorsed on the Final Plan by the Mayor or, in the event of his or her absence or disability, the Vice-President of the City Council. (Ord. 3639, 2000)

25-15-19. Final Plan; disapproval; reconsideration .

If the City Council finds the Final Plan does not conform to the Tentative Plan, with or without modifications approved in accordance with section 25-15-16, and there is no petition pending to modify further the Final Plan so that it will so conform, the City Council shall, by resolution, make findings that the Final Plan fails to conform and disapprove it. The Development Services Director shall promptly notify the petitioner that the Final Plan has been disapproved and state the findings of the City Council. If the petitioner does not file a petition to modify the proposed Final Plan within twenty (20) days after the City Council has disapproved the plan, the City Council's disapproval thereupon shall become final. If the petitioner does file a petition to modify the Final Plan and it appears from the petition that the proposed modifications are such that the Final Plan so modified will conform to the Tentative Plan and modifications of it previously approved, the City Council shall

reconsider its action of disapproval at the next regular meeting of the City Council or at a special meeting called for the purpose to meet before the next regular City Council meeting. If, after reconsideration, the City Council finds the modifications proposed to the disapproved Final Plan are sufficient to cause it to conform to the Tentative Plan and any modifications of the Tentative Plan previously approved, the City Council may, by resolution, approve the Final Plan as thus modified. (Ord. 3639, 2000)

25-15-20. Final Plan; subsequent modification.

After a Final Plan has been approved, as provided in either sections 25-15-18 or 25-15-19, an owner of the land may file with the Development Services Director a petition, addressed to the City Council, to modify the Final Plan. If it shall appear to the City Council that the use of the land in accordance with the Final Plan as proposed to be modified may be of a substantially different character, for zoning purposes, from the use of the land in accordance with the Final Plan as approved, the City Council, before acting upon the request for modifications, shall order the request referred to the Planning Commission, and thereafter proceedings shall be had upon the request before the Planning Commission and, subsequently, before the City Council as provided in sections 25-15-4 and 24-15-6. (Ord. 3639, 2000)

25-15-21. Building, improvement plans; conformance.

Building and improvement plans and specifications for a planned business center, and each part thereof, shall conform to the Final Plan as approved by the City Council. (Ord. 3639, 2000)

25-15-22. Building permit; issue; when.

The Code Administrator II may not issue any building permit for a center until:

- (1) the plans and specifications for all buildings and improvements have been approved by the Planning and Building Director as conforming to the Final Plan, and
- (2) a bond has been posted with the City Clerk in an amount fixed by the Director, either in cash or with sureties satisfactory to the Director conditioned upon installation of all improvements required in the Final Plan. (Ord. 3639, 2000)

25-15-23. Construction; time; speculation.

Construction of all buildings and improvements in conformance with the Final Plan approved by the City Council shall be commenced within three (3) years after enactment of the ordinance creating the PBC Zone for the planned business center. The holding of undeveloped lots or tracts of land in the PBC Zone for speculative purposes is prohibited. (Ord. 3639, 2000)

25-15-24. Construction; failure to construct.

If it shall appear to the City Council that the owner or owners of the land in respect of which a Final Plan for a planned business center has been approved by the City Council have failed:

- (1) to commence construction of the center within the time permitted by this Article, or
- (2) to complete construction of the center within a reasonable time after construction is commenced, or
- (3) to construct the center in conformance with the Final Plan, the City Council may order referred to the Planning Commission the question whether the Final Plan and the zoning of the land as PBC Zone should be revoked, or the Final Plan should be modified and the size of the PBC Zone

reduced. Thereafter proceedings shall be had with reference to such matter as provided in sections 25-15-4 and 25-15-6 of this Article, and if the City Council, upon a hearing shall find that the construction of the center does not, in one or more of the respects mentioned in this section, conform to the Final Plan, may revoke approval of the Final Plan and repeal the ordinance creating the PBC Zone, or may modify the Final Plan and by ordinance reduce the area of the PBC Zone to fit the completed construction, if any, as in the exercise of a sound discretion will be most in accordance with the zoning purposes and objectives of this Chapter. (Ord. 3639, 2000)

25-15-25. Time limits; extension.

The City Council may, on written application and for good cause shown, extend the time limits prescribed in the sections of this Article pertaining specifically to PBC Zones and planned business centers for a period not to exceed twenty-four (24) months in aggregate. (Ord. 3639, 2000)

25-15-26. Reports.

The City Council may, from time to time, require the petitioner or the owner or owners of the lots or tracts of land in respect of which a Final Plan has been approved to submit written reports on the progress of development of the planned business center. (Ord. 3639, 2000)

25-15-27. Floodways; amendments; repeal.

The procedure to amend, supplement, extend, change, modify or repeal any regulation, restriction or condition pertaining specifically to, or to change any boundary of, a floodway district shall be that prescribed in sections 25-15-1 to 25-15-10, inclusive, as now existing or hereafter amended; provided, the existing location of the boundaries of a floodway district shall be reconsidered by the City Council upon the petition of any interested person showing that:

- (1) a flood control project of the Federal, State, County, or City government, or of a private person, has substantially altered the flood hazard, or
- (2) flood data compiled subsequent to the enactment of Article 19 indicate that a boundary of the district as shown on the Floodway District Map(s) incorporated in this Chapter has been incorrectly located in the light of the purposes of and standards prescribed in Article 19. (Ord. 3639, 2000)

ARTICLE 16

ADMINISTRATION, ENFORCEMENT

Section

<u>25-16-1</u>	<u>Enforcement; entry; inspection.</u>
<u>25-16-2</u>	<u>Certificate of occupancy; necessity.</u>
<u>25-16-3</u>	<u>Certificate of occupancy; application; plan.</u>
<u>25-16-4</u>	<u>Certificate of occupancy; fees.</u>

<u>25-16-5</u>	<u>Certificate of occupancy; issued; when.</u>
<u>25-16-6</u>	<u>Certificate of occupancy; contents; file; copies.</u>
<u>25-16-7</u>	<u>Public nuisance; declaration; abatement.</u>
<u>25-16-8</u>	<u>Remedies; cumulative.</u>

25-16-1. Enforcement; entry; inspection.

The Development Services Director, or his or her authorized representative, may enter any building or structure or go upon any lot or tract of land to inspect for compliance with or to prevent violation of any provision of this Chapter. Such right of entry may be exercised only during daylight hours. A dwelling may not be entered without consent of its occupant unless a search warrant has been obtained in the manner provided by law. (Ord. 3639, 2000)

25-16-2. Certificate of occupancy; necessity.

A vacant lot or tract of land may not be occupied or used, nor may the use of any building, structure, lot or tract of land be changed, until the owner or occupant has applied for and there has been issued a certificate of occupancy authorizing such use. Provided, this section shall not apply to any building or structure the outside dimension of which is ten (10) feet by twelve (12) feet or less. (Ord. 3639, 2000)

25-16-3. Certificate of occupancy; application; plan.

An application for a certificate of occupancy must be accompanied by a plan in duplicate, drawn to scale, showing:

- (1) the location of all buildings or structures and any parking to be provided on the lot or tract of land involved,
- (2) accurate dimensions of the lot or tract of land and all buildings or structures built or to be built on the lot or tract of land,
- (3) the location of the main building on each adjacent lot, and
- (4) any other information required to enable the Development Services Director to determine if the plan complies with the provisions of this Chapter. (Ord. 3639, 2000)

25-16-4. Certificate of occupancy; fees.

Unless a certificate of occupancy is applied for at the same time application is made for a building permit, the inspector shall charge a fee as described in Chapter 6, Article 6 of the Municipal Code for each certificate of occupancy and one dollar (\$1.00) for a copy of any original certificate issued. (Ord. 3639, 2000)

25-16-5. Certificate of occupancy; issued; when.

The Development Services Director shall issue a certificate of occupancy within ten (10) days after application for it is made if the proposed use of the building, structure, lot, or tract of land complies with the provisions of this Chapter and any other ordinances and statutes pertaining to building construction, use, health, or safety. If an application for a certificate of occupancy is made in conjunction with an application for a building permit, the Director shall issue the certificate of occupancy when the requirements of this section have been met. (Ord. 3639, 2000)

25-16-6. Certificate of occupancy; contents; file; copies.

A certificate of occupancy shall state that the proposed use of the building, structure, lot, or tract of land for which it is issued appears to comply with the provisions of this Chapter and any other ordinance which regulates the construction or use of a building or structure, or pertaining to health or safety. The Development Services Director shall keep on file in his or her office a copy of the certificate of occupancy as issued, and shall furnish, on payment of the fee prescribed in section 25-16-4, a copy of the certificate of occupancy to any person having an interest either as owner or tenant in the building, structure, lot, or tract of land for which the certificate was issued. (Ord. 3639, 2000)

25-16-7. Public nuisance; declaration; abatement.

Any building, structure, lot, or tract of land which is built, moved, altered or used in violation of any provision of this Chapter is declared to be a public nuisance. The City Attorney is authorized to prosecute any action in a court of competent jurisdiction to enjoin any person, firm, association, or corporation from building, moving, altering, using, or maintaining any building, structure, lot, or tract of land as a nuisance. (Ord. 3639, 2000)

25-16-8. Remedies; cumulative.

The remedies provided in this Article are, unless the context otherwise clearly indicates, cumulative to each other and to any other remedies provided by law. (Ord. 3639, 2000)

ARTICLE 17

APPEALS

Section

<u>25-17-1</u>	<u>Appeals; to Board of Adjustments; fee.</u>
<u>25-17-2</u>	<u>Appeals; notice of appeal; fee.</u>
<u>25-17-3</u>	<u>Adjacent landowners; names; fees.</u>
<u>25-17-4</u>	<u>Hearing; notice; rules of Board.</u>

25-17-1. Appeals; to Board of Adjustment; fee.

On appeal to the Board of Adjustment by a person aggrieved by an order, requirement, decision or determination made by the Development Services Director or by the Code Administrator II, such person, at the time of filing the notice of appeal, shall pay to the Development Services Director a fee in the amount provided in Chapter 6, Article 6. Upon the filing of the notice and payment of the fee, if the appeal is taken from an order, requirement, decision or determination of the Code Administrator II, the Director shall in writing notify the Inspector thereof. (Ord. 3639, 2000)

25-17-2. Appeals; notice of appeal; fee.

Notice of an appeal to the Board of Adjustment shall be filed as prescribed by the rules of the Board. The fee provided in Chapter 6, Article 6 shall be paid by the appellant (unless appellant is the City or an officer of the City) to the Development Services Director at the time of filing the notice of appeal. (Ord. 3639, 2000)

25-17-3. Adjacent landowners; names; fees.

The Development Services Director shall cause to be prepared a list of the names of the owners of all lots and tracts of land immediately adjacent on the sides and in the rear of appellant's property extending three hundred (300) feet therefrom, and of the lots and tracts of land directly opposite from appellant's property extending three hundred (300) feet from the street frontage of such opposite lots. The appellant shall pay to the Development Services Director a further fee in the amount provided in Chapter 6, Article 6 per each name contained in the list. Failure of appellant to pay such fee within ten (10) days after the Director shall have notified appellant thereof shall constitute grounds for dismissal of the appeal by the Board. (Ord. 3639, 2000)

25-17-4. Hearing; notice; rules of Board.

Appeals shall be heard at a time and in a manner prescribed by rules of the Board of Adjustment. Notice of a hearing on an appeal shall be given as required by statute and also shall be served upon the persons whose names are on the list of owners of lots and tracts of land referred to above, either by personal service, by mailing, or by leaving at the last known place of residence, as the Board shall provide. (Ord. 3639, 2000)

ARTICLE 18**VIOLATIONS; PENALTIES****Section**

[25-18-1](#) [Violations; penalty.](#)

25-18-1. Violations; penalty.

A violation of any provision of this Chapter is a Class II violation. After the Development Services Director, or, as the case may be, the Code Administrator II, shall have notified any person, firm, association or corporation in writing of a violation, each day such violation or refusal or failure to comply continues shall constitute a separate offense. (Ord. 3639, 2000)

ARTICLE 19**FLOODWAYS****(a) STATUTORY AUTHORIZATION, FINDING OF FACT AND PURPOSES****Section**

[25-19-1](#) [Statutory authorization.](#)

[25-19-2](#) [Findings of fact; flood losses resulting from periodic inundation.](#)

[25-19-3](#) [Findings of fact; general causes of the flood losses.](#)

<u>25-19-4</u>	<u>Findings of fact; methods used to analyze flood hazards.</u>
<u>25-19-5</u>	<u>Statement of purpose.</u>

(b) GENERAL PROVISIONS

<u>25-19-6</u>	<u>Flood insurance rate map and zones; established.</u>
<u>25-19-7</u>	<u>Flood boundary and floodway map and zones; established.</u>
<u>25-19-8</u>	<u>Lands to which Article applies.</u>
<u>25-19-9</u>	<u>The enforcement officer.</u>
<u>25-19-10</u>	<u>Rules for interpretation of district boundaries.</u>
<u>25-19-11</u>	<u>Compliance.</u>
<u>25-19-12</u>	<u>Abrogation and greater restrictions.</u>
<u>25-19-13</u>	<u>Interpretation.</u>
<u>25-19-14</u>	<u>Warning and disclaimer of liability.</u>
<u>25-19-15</u>	<u>Severability.</u>
<u>25-19-16</u>	<u>Appeal.</u>

(c) DEVELOPMENT PERMIT

<u>25-19-17</u>	<u>Permit required.</u>
<u>25-19-18</u>	<u>Administration.</u>
<u>25-19-19</u>	<u>Application for permit.</u>

(d) ESTABLISHMENT OF DISTRICTS

<u>25-19-20</u>	<u>Districts; established.</u>
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(e) STANDARDS FOR FLOODPLAIN DEVELOPMENT

<u>25-19-21</u>	<u>Development; not allowed without compliance with this Article.</u>
<u>25-19-22</u>	<u>Base flood inundation.</u>
<u>25-19-23</u>	<u>Development; condition for allowance.</u>
<u>25-19-24</u>	<u>Development; additional conditions.</u>
<u>25-19-25</u>	<u>Storage of material and equipment.</u>
<u>25-19-26</u>	<u>Development; assurances required.</u>

(f) FLOOD FRINGE OVERLAY DISTRICT (including AO and AH Zones)

<u>25-19-27</u>	<u>Permitted uses.</u>
<u>25-19-28</u>	<u>Standards for the flood fringe overlay district.</u>
<u>25-19-29</u>	<u>Standards for flood fringe overlay zone; manufactured homes.</u>
<u>25-19-30</u>	<u>Standards for flood fringe overlay zone; recreational vehicles.</u>
<u>25-19-31</u>	<u>AO Zones; provisions applicable.</u>

(g) FLOODWAY OVERLAY DISTRICT

<u>25-19-32</u>	<u>Permitted uses.</u>
<u>25-19-33</u>	<u>Encroachments; prohibited without certification.</u>

(h) VARIANCE PROCEDURES

<u>25-19-34</u>	<u>Variance requests; Board of Adjustment to hear.</u>
<u>25-19-35</u>	<u>Variance requests; appeal from decision of Board of Adjustment.</u>
<u>25-19-36</u>	<u>Variance requests; factors to be considered.</u>

(i) CONDITIONS FOR VARIANCES

<u>25-19-37</u>	<u>Variances; general conditions.</u>
<u>25-19-38</u>	<u>Variances; historic structures.</u>
<u>25-19-39</u>	<u>Variances; when not allowed.</u>
<u>25-19-40</u>	<u>Variances; condition for allowance.</u>
<u>25-19-42</u>	<u>Variances; written notice to successful applicant.</u>

(j) NONCONFORMING USE

<u>25-19-43</u>	<u>Nonconforming use; conditions for continuance.</u>
<u>25-19-44</u>	<u>Nonconforming use; destruction.</u>

(k) PENALTIES FOR VIOLATION

<u>25-19-45</u>	<u>Penalties.</u>
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(l) DEFINITIONS

<u>25-19-46</u>	<u>Definitions.</u>
<u>25-19-47</u>	<u>Appeal.</u>
<u>25-19-48</u>	<u>Area of Shallow Flooding.</u>
<u>25-19-49</u>	<u>Base Flood.</u>
<u>25-19-50</u>	<u>Basement.</u>
<u>25-19-51</u>	<u>Development.</u>
<u>25-19-51.1</u>	<u>Expansion to an Existing Manufactured Home Park or Subdivision</u>
<u>25-19-52</u>	<u>Existing Construction.</u>
<u>25-19-53</u>	<u>Existing Manufactured Home Park of Subdivision.</u>
<u>25-19-54</u>	<u>Flood or Flooding.</u>
<u>25-19-55</u>	<u>Flood Fringe.</u>
<u>25-19-56</u>	<u>Flood Insurance Rate Map (FIRM).</u>
<u>25-19-57</u>	<u>Flood Insurance Study.</u>
<u>25-19-58</u>	<u>Floodplain.</u>
<u>25-19-59</u>	<u>Floodway or Regulatory Floodway.</u>
<u>25-19-60</u>	<u>Freeboard.</u>
<u>25-19-61</u>	<u>Highest Adjacent Grade.</u>
<u>25-19-62</u>	<u>Historic Structure.</u>

<u>25-19-63</u>	<u>Lowest floor.</u>
<u>25-19-64</u>	<u>Manufactured Home.</u>
<u>25-19-65</u>	<u>Manufactured Park or Subdivision.</u>
<u>25-19-66</u>	<u>New Construction.</u>
<u>25-19-66.1</u>	<u>New Manufactured Home Park or Subdivision</u>
<u>25-19-67</u>	<u>Overlay District.</u>
<u>25-19-68</u>	<u>Principally Above Ground.</u>
<u>25-19-69</u>	<u>Recreational Vehicle.</u>
<u>25-19-70</u>	<u>Special Flood Hazard Area.</u>
<u>25-19-71</u>	<u>Start of Construction.</u>
<u>25-19-72</u>	<u>Structure.</u>
<u>25-19-73</u>	<u>Substantial Damage.</u>
<u>25-19-74</u>	<u>Substantial Improvement.</u>
<u>25-19-75</u>	<u>Variance.</u>
<u>25-19-76</u>	<u>Floodway Overlay Districts. Subdivision Proposals.</u>
<u>25-19-77</u>	<u>Violation</u>

(a) STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES

25-19-1. Statutory authorization.

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The Legislature 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 Scottsbluff, Nebraska, establishes the regulations contained in this Article. (Ord. 3639, 2000)

25-19-2. Findings of fact; flood losses resulting from periodic inundation.

The flood hazard areas of Scottsbluff, Nebraska, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. (Ord. 3639, 2000)

25-19-3. Findings of fact; general causes of the flood losses.

These flood losses are caused by: (1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages. (Ord. 3639, 2000)

25-19-4. Findings of fact; methods used to analyze flood hazards.

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

A. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area

inundated, and the depth of inundation. The base flood is selected for this Article. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this Article. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated June 15, 1979 as amended, and any future revisions thereto.

B. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.

C. Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.

D. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.

E. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood. (Ord. 3639, 2000)

25-19-5. Statement of purpose.

It is the purpose of this Article to promote the public health, safety, and general welfare and to minimize those losses described in section 25-19-2 by applying the provisions of this Article to:

(1) Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.

(2) Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.

(3) Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.

(4) Assure that eligibility is maintained for property owners in the City to purchase flood insurance in the National Flood Insurance Program. (Ord. 3639, 2000)

(b) GENERAL PROVISIONS

25-19-6. Flood insurance rate map and zones; established.

Flood Insurance Rate Map (FIRM) dated June 15, 1979 is hereby adopted and incorporated into this Article by reference. The various districts described in said FIRM are hereby established. (Ord. 3639, 2000)

25-19-7. Flood boundary and floodway map and zones; established.

Flood boundary and floodway map dated June 15, 1979 is hereby adopted and incorporated into this Article by reference. The various districts described in said map are hereby established. (Ord. 3639, 2000)

25-19-8. Lands to which Article applies.

This Article shall apply to all lands within the jurisdiction of the City of Scottsbluff identified on the Flood Insurance Rate Map (FIRM) as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the overlay districts FW and FF established in this Article. In all areas covered by this Article no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the Development Services Director under such safeguards and restrictions as

the Development Services Director may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the City and where specifically noted in this Article. (Ord. 3639, 2000)

25-19-9. The enforcement officer.

The City Manager or the designee of the City manager is hereby designated as the City's duly designated enforcement officer. (Ord. 3939, 2007)

25-19-10. Rules for interpretation of district boundaries.

The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the Director zoning map or on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the Director zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Development Services Director 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 or her case to the Board of Adjustment and to submit his or her own technical evidence, if that person so desires. (Ord. 3639, 2000)

25-19-11. Compliance.

Within identified special flood hazard areas of this City, no development shall be located, extended, converted or structurally altered without full compliance with the terms of this Article and other applicable regulations. (Ord. 3639, 2000)

25-19-12. Abrogation and greater restrictions.

It is not intended by this Article to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. (Ord. 3639, 2000)

25-19-13. Interpretation.

In their interpretation and application, the provisions of this Article shall be held to be minimum requirements and shall be liberally construed in favor of the City Council and shall not be deemed a limitation or repeal of any other powers granted by state statutes. (Ord. 3639, 2000)

25-19-14. Warning and disclaimer of liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This Article shall not create liability on the part of the City of Scottsbluff or any officer or employee thereof for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder. (Ord. 3639, 2000)

25-19-15. Severability.

If any section, clause, provision or portion of this Article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Article shall not be affected thereby. (Ord. 3639, 2000)

25-19-16. Appeal.

Any person aggrieved by a decision of the Development Services Director made pursuant to this Article may appeal such decision to the Board of Adjustment. Such appeal shall be in accordance with the procedures described elsewhere in this Chapter, in the statutes of Nebraska, and in the rules of procedure of the Board of Adjustment. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the District Court as provided by the statutes of Nebraska. (Ord. 3639, 2000)

(c) DEVELOPMENT PERMIT**25-19-17. Permit required.**

No person, firm or corporation shall initiate any development or substantial improvement in any area covered by this Article or cause the same to be done without first obtaining a separate permit for development as defined in this Article. (Ord. 3639, 2000)

25-19-18. Administration.

(1) The Development Services Director is hereby appointed to administer and implement the provisions of this Article.

(2) Duties of the Development Services Director shall include, but not be limited to:

- a. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this Article have been satisfied.
- b. Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.
- c. Notify adjacent communities and the Nebraska Natural Resources Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- d. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- e. 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.
- f. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been flood proofed.
- g. When flood proofing is utilized for a particular structure the Development Services Director shall be presented certification from a registered professional engineer or architect.
- h. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will reasonably be safe from flooding.”

(Ord. 3639, 2000; Ord. 4146)

25-19-19. Application for permit.

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

- (1) Identify and describe the development to be covered by the floodplain development permit.
- (2) Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
- (3) Indicate the use or occupancy for which the proposed development is intended.
- (4) Be accompanied by plans and specifications for proposed construction.
- (5) Be signed by the permittee or his or her authorized agent who may be required to submit evidence to indicate such authority.
- (6) Give such other information as reasonably may be required by the Development Services Director. (Ord. 3639, 2000)

(d) ESTABLISHMENT OF DISTRICTS**25-19-20. Districts; established.**

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: A floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the Flood Insurance Study and the accompanying maps. Within these districts all uses not meeting the standards of this Article and those standards of the underlying zoning district shall be prohibited. (Ord. 3639, 2000)

(e) STANDARDS FOR FLOODPLAIN DEVELOPMENT**25-19-21. Development; not allowed without compliance with this Article.**

No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of sections 25-19-22 through 25-19-26 are satisfied. (Ord. 3639, 2000)

25-19-22. Base flood inundation.

All areas identified as unnumbered A zones on the FIRM 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 sections 25-19-27 through 25-19-31. If Flood Insurance Study data is not available, the City shall utilize any base flood elevation or floodway data currently available from Federal, State or other sources. (Ord. 3639, 2000)

25-19-23. Development; condition for allowance.

Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements will not increase the water surface elevation

of the base flood more than one (1) foot at any location as shown on the Flood Insurance Study. (Ord. 3639, 2000)

25-19-24. Development; additional conditions.

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 hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(2) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.

(3) Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) All utility and sanitary facilities be elevated or flood proofed up to the regulatory flood protection elevation. (Ord. 3639, 2000)

25-19-25. Storage of material and equipment.

(1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

(2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning. (Ord. 3639, 2000)

25-19-26. Development; assurances required.

Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall be required to assure that (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards, and (d) proposals for development (including proposals for manufactured home parks and subdivision) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the base flood elevation. (Ord. 3639, 2000)

**(f) FLOOD FRINGE OVERLAY DISTRICT -
(Including AO and AH Zones)**

25-19-27. Permitted uses.

Any use permitted in section 25-19-32 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of sections 25-19-21 through 25-19-26 are met. (Ord. 3639, 2000)

25-19-28. Standards for the flood fringe overlay district.

All new construction or substantial improvements in the flood fringe overlay district shall conform

to the following requirements:

(1) The lowest floor, including basement, of residential structures shall be elevated to or above one foot above the base flood elevation.

(2) The lowest floor, including basement, of non-residential structures shall be elevated to or above one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, shall 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 Development Services Director as set forth in section 25-19-18 (2) g.

(3) Fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures. (Ord. 3639, 2000)

25-19-29. Standards for flood fringe overlay zone; manufactured homes.

(1) All manufactured homes in a special flood hazard area shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

- a. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
- b. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
- c. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
- d. Any additions to the manufactured home be similarly anchored.

(2) All manufactured homes to be placed or substantially improved within special flood hazard areas on the City's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (1) of this section if located on sites:

- a. Outside of a manufactured home park or subdivision,
- b. In a new manufactured home park or subdivision,
- c. In an expansion to an existing manufactured home park or subdivision, or

- d. In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood.
- (3) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the FIRM that are not subject to the provisions of subsection (2) of this section shall be elevated so that either:
- a. The lowest floor of the manufactured home is at or above one foot above the base flood elevation, or
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (1) of this section.”

(Ord. 3639, 2000; Ord. 4146)

25-19-30. Standards for flood fringe overlay zone; recreational vehicles.

Recreational vehicles placed on sites within the special flood hazard areas on the City’s Director map shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for “manufactured homes” of this Article. 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 securely devices, and has no permanently-attached additions. (Ord. 3639, 2000)

25-19-31. AO Zones; provisions applicable.

Located within the areas of special flood hazard established in this Article are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:

- (1) 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 foot above the depth number specified in feet on the FIRM (at least two feet if no depth number is specified).
- (2) All new construction and substantial improvements of non-residential structures shall:
 - a. Have the lowest floor elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the FIRM (at least two feet if no depth number is specified), or
 - b. 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 Development Services Director as set forth in section 25-19-18 (2)g.
- (3) Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures. (Ord. 3639, 2000)

(g) FLOODWAY OVERLAY DISTRICT

25-19-32. Permitted uses.

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

- (1) Agricultural uses such as general farming, pasture, nurseries, forestry.
- (2) Residential uses such as lawns, gardens, parking and play areas.
- (3) Non-residential areas such as loading areas, parking and airport landing strips.
- (4) Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves. (Ord. 3639, 2000)

25-19-33. Encroachments; prohibited without certification.

New structures for human habitation are prohibited in the Floodway Overlay District. All encroachments, including fill, new construction, substantial improvements and other development in any floodway district are prohibited in the Floodway Overlay District unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of sections 25-19-21 through 25-19-31. In Zone A unnumbered any flood elevation and floodway data available through Federal, State or other sources or section 25-19-26 shall be obtained, reviewed, and reasonably utilized in meeting the standards of this section. (Ord. 3639, 2000)

(h) VARIANCE PROCEDURES**25-19-34. Variance requests; Board of Adjustment to hear.**

The Board of Adjustment shall hear and decide requests for variances from the requirements of the provisions of this Article. (Ord. 3639, 2000)

25-19-35. Variance requests; appeal from decision of Board of Adjustment.

Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided by the statutes of Nebraska. (Ord. 3639, 2000)

25-19-36. Variance requests; factors to be considered.

In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this Article, 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 City;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain

management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges. (Ord. 3639, 2000)

(i) CONDITIONS FOR VARIANCES

25-19-37. Variances; general conditions.

Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the factors in section 25-19-36 have been fully considered, and providing further that the requirements of section 19-910, R.R.S. 1943 are met. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases. (Ord. 3639, 2000)

25-19-38. Variances; historic structures.

Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure. (Ord. 3639, 2000)

25-19-39. Variances; when not allowed.

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. (Ord. 3639, 2000)

25-19-40. Variances; condition for allowance.

Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. (Ord. 3639, 2000)

25-19-41. Variances; further conditions for allowance.

Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other provisions of the Municipal Code. (Ord. 3639, 2000)

25-19-42. Variances; written notice to successful applicant.

Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor evaluation. (Ord. 3639, 2000)

(j) NONCONFORMING USE

25-19-43. Nonconforming use; conditions for continuance.

A structure or the use of a structure or premises which was lawful before the passage or amendment of the Article but which is not in conformity with the provisions of this Article may be continued subject to the following conditions:

(1) If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Article. The Water Superintendent and the Wastewater Superintendent shall notify the Planning and Building Director in writing of instances of nonconforming uses where water and sewer services have been discontinued for a period of twelve (12) months.

(2) Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses. (Ord. 3639, 2000)

25-19-44. Nonconforming use; destruction.

If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this Article. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration shall not preclude its continued designation. (Ord. 3639, 2000)

(k) PENALTIES FOR VIOLATION

25-19-45. Penalties.

Any building or structure which is in violation of any provision of this Article is declared to be an unsafe structure. All provisions of Chapter 4, Article 6 of the Municipal Code pertaining to unsafe structures, including penalty provisions, shall be applicable to violations of this Article. (Ord. 3639, 2000)

(l) DEFINITIONS

25-19-46. Definitions.

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application. Where a term is defined in the following sections shall be the meaning of that term wherever it appears in this Article. (Ord. 3639, 2000)

25-19-47. Appeal.

“Appeal” means a request for a review of the Development Services Director’s interpretation of any provision of this Article or a request for a variance. (Ord. 3639, 2000)

25-19-48. Area of Shallow Flooding.

“Area of Shallow Flooding” means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three

feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. (Ord. 3639, 2000)

25-19-49. Base Flood.

“Base Flood” means the flood having one percent chance of being equaled or exceeded in any given year. (Ord. 3639, 2000)

25-19-50. Basement.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides. (Ord. 3639, 2000)

25-19-51. Development.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. (Ord. 3639, 2000)

25-19-51.1 Expansion to an Existing Manufactured Home Park or Subdivision.

“Expansion to an Existing Manufactured Home Park or Subdivision” means 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). (Ord. 4146)

25-19-52. Existing Construction.

“Existing Construction” means (for the purposes of determining rates) structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRM’s effective before that date. “Existing construction” may also be referred to as “existing structures.” (Ord. 3639, 2000)

25-19-53. Existing Manufactured Home Park or Subdivision.

“Existing Manufactured Home Park or Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the City. (Ord. 3639, 2000)

25-19-54. Flood or Flooding.

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

- (1) The overflow of inland or tidal waters.
- (2) The usual and rapid accumulation of runoff of surface waters from any source. (Ord. 3639, 2000)

25-19-55. Flood Fringe.

“Flood Fringe” is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year). (Ord. 3639, 2000)

25-19-56. Flood Insurance Rate Map (FIRM).

“Flood Insurance Rate Map (FIRM)” means an Director map of the City, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the City. (Ord. 3639, 2000)

25-19-57. Flood Insurance Study.

“Flood Insurance Study” is the Director 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. (Ord. 3639, 2000)

25-19-58. Floodplain.

“Floodplain” means any land area susceptible to being inundated by water from any source (see definition of “flooding”). (Ord. 3639, 2000)

25-19-59. Floodway or Regulatory Floodway.

“Floodway” or “Regulatory Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. (Ord. 3639, 2000)

25-19-60. Freeboard.

“Freeboard” means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. (“Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed. (Ord. 3639, 2000)

25-19-61. Highest Adjacent Grade.

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

25-19-62. Historic Structure.

“Historic Structure” means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs. (Ord. 3639, 2000)

25-19-63. Lowest floor.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Article. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-19-64. Manufactured Home.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.” (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-19-65. Manufactured Park or Subdivision.

“Manufactured Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-19-66. New Construction.

“New Construction.” For flood management purposes, “new construction” means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by the City and includes any subsequent improvements to such structures. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-19-66.1 New Manufactured Home Park or Subdivision.

“New Manufactured Home Park or Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either the 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.” (Ord. 4146)

25-19-67. Overlay District.

“Overlay District” is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change. (Ord. 3639, 2000). sff
section renumbered by the City Clerk pursuant to §14-2-9.

25-19-68. Principally Above Ground.

“Principally Above Ground” means that at least 51 percent of the actual cash value of the structure is above ground. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-19-69. Recreational Vehicle.

“Recreational Vehicle” means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary quarters for recreational, camping, travel, or seasonal use. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-19-70. Special Flood Hazard Area.

“Special Flood Hazard Area” is the land in the floodplain within a zoning jurisdiction of the City subject to one percent or greater chance of flooding in any given year. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-19-71. Start of Construction.

“Start of Construction” (for other than new construction or substantial improvements under the coastal Barrier Resources Act [Pub. L. 97-348]) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-19-72. Structure.

“Structure” means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-19-73. Substantial Damage.

“Substantial Damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-19-74. Substantial Improvement.

“Substantial Improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before “start of construction” of the improvement. This includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the Development Services Director and which are the minimum necessary to assure safe living conditions, or (2) any alteration of “historic structure,” provided that the alteration will not preclude the structure's continued designation as a “historical structure.” (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-19-75. Variance.

“Variance” is a grant of relief to a person from the requirements of this Article which permits construction in a manner otherwise prohibited by this Article where specific enforcement would result in unnecessary hardship. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-19-76. Floodway Overlay Districts. Subdivision Proposals.

All subdivision proposals for subdivisions located in whole or in part within any Floodway Overlay District or Flood Fringe Overlay District shall conform to the requirements of Chapter 25, Article 19 of the Municipal Code. (Ord. 3639, 2000). This section renumbered by the City Clerk pursuant to §14-2-9.

25-19-77 Violation.

“Violation” means a failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.

ARTICLE 20

WIND ENERGY CONVERSION SYSTEMS

Section

<u>25-20-1</u>	<u>Definitions; applicability.</u>
<u>25-20-2</u>	<u>Wind energy conversion system; WECS.</u>
<u>25-20-3</u>	<u>WECS; site.</u>
<u>25-20-4</u>	<u>WECS; swept area.</u>
<u>25-20-5</u>	<u>WECS; total height.</u>
<u>25-20-6</u>	<u>Findings; City Council.</u>
<u>25-20-7</u>	<u>Article; purpose.</u>
<u>25-20-8</u>	<u>Heights.</u>
<u>25-20-9</u>	<u>Setback.</u>
<u>25-20-10</u>	<u>Special permit.</u>
<u>25-20-11</u>	<u>Special permit; application.</u>
<u>25-20-12</u>	<u>Special permit; Article 13 requirements.</u>
<u>25-20-13</u>	<u>Special permits; findings; Planning Commission; additional.</u>
<u>25-20-14</u>	<u>Abandonment.</u>

25-20-1. Definitions; applicability.

Whenever used in the Article, the terms defined in the following sections shall bear the meaning given them in those sections. (Ord. 3639, 2000)

25-20-2. Wind energy conversion system; WECS.

The term “wind energy conversion system” means a machine that converts kinetic energy in wind into a different, usable form of energy, including a machine commonly known as a wind turbine or windmill. Unless the context clearly indicates otherwise, the term refers to all components of such a system, including, but not limited to, the tower and transmission equipment. For convenience, the term usually is abbreviated “WECS.” (Ord. 3639, 2000)

25-20-3. WECS; site.

The term “site” means the lot or tract of land upon which a WECS is placed. It includes such a lot or tract of land whether privately or publicly owned, and regardless of whether the WECS is owned by, in possession or control of, or operated by the same person who owns or is in possession of the lot or tract of land. (Ord. 3639, 2000)

25-20-4. WECS; swept area.

The term “swept area” means the largest area of the WECS which extracts energy from the wind stream. (Ord. 3639, 2000)

25-20-5. WECS; total height.

The term “total height” means the aggregate height of the tower and the furthest vertical extension of any other component of the WECS. (Ord. 3639, 2000)

25-20-6. Findings; City Council.

It is found and declared that:

- (1) wind energy is an abundant, renewable and nonpolluting energy resource, and its conversion to electricity will reduce dependence on nonrenewable energy sources and decrease air and water pollution which may result from use of conventional energy,
- (2) wind turbines which convert wind energy to electricity are currently available on a commercial basis from many manufacturers, and
- (3) the generation of electricity by properly sited wind turbines can be cost effective, and in many instances existing power distribution systems can be used to transmit electricity from wind generating stations to utilities or other users. (Ord. 3639, 2000)

25-20-7. Article; purpose.

The purpose of this Article is to regulate the occupancy and use of lands by wind energy conversion systems for protection of the public health, safety and general welfare - including, but not limited to, that of owners and occupants of adjacent lands - in a manner that will facilitate the effective and efficient use of such systems. (Ord. 3639, 2000)

25-20-8. Heights.

The total height of a WECS shall not exceed eighty (80) feet except in the A District, or the maximum height permitted by regulations of the State or the Federal Government, whichever is lesser. The minimum distance of any blade above the ground shall be fifteen (15) feet; provided, if there shall exist within a two-hundred-fifty (250) foot radius of the center point of the tower any building, structure (not including electrical transmission or distribution lines, antennas, slender or open lattice towers or open fences) or tree in excess of thirty-five (35) feet in height, the minimum distance of any blade above the ground shall be the greater of:

- (1) the sum of thirty (30) feet and the height, in feet, of the tallest of such building(s), structure(s) or tree(s), or
- (2) such distance above the ground as the manufacturer shall recommend to assure sufficient air flow for adequate operation of the WECS. (Ord. 3951, 2007)

25-20-9. Setback.

The tower support base of the WECS shall be located a distance from the boundary lines of the lot or tract of land, and from all aboveground utility lines, that is not less than one and one-fourth (1 1/4) times the total height of the WECS. (Ord. 3639, 2000)

25-20-10. Special permit.

The Planning Commission may issue a special permit authorizing the erection, maintenance and operation of WECS in any zone, and modifying as to such system, as provided in this Article, zoning

regulations pertaining to height, setback and other provisions of this Chapter which otherwise would apply to the system, if the Commission determines that the requirements of this Article, and of Article 16 of this Chapter, have been met. (Ord. 3639, 2000)

25-20-11. Special permit; application.

An application for a special permit to erect, maintain and operate a WECS shall comply with the requirements for an application for a special permit as described elsewhere in the municipal code and, in addition, shall include the following information:

- (1) address and telephone number of the owner of the lot or tract of land and, if the WECS is to be erected, maintained or operated by some other person, the name, address and telephone number of such other person,
- (2) a plot plan and development plan drawn in sufficient scale and detail to clearly describe:
 - a. the property lines and physical dimensions of the proposed site, including all public streets and alleys abutting the site,
 - b. the location and total height of the WECS,
 - c. the location, dimensions and types of all major existing structures and uses of the site,
 - d. the location of all aboveground utility lines and other WECSs on the site or within a radius from the center of the tower which is equal to one and one-half (1 ½) times the total height of the proposed WECS,
 - e. the location and size of all buildings, structures and trees exceeding thirty-five (35) feet in height within a five-hundred (500) foot radius of the proposed WECS (for purposes of this requirement, electrical transmission and distribution lines, antennas, slender or open lattice towers and open fences are not considered structures),
 - f. where applicable, the location of all transmission facilities proposed for installation,
 - g. where applicable, the location of all road and other service structures proposed as part of the installation, and
 - h. the zoning districts within which are situated the lot or tract of land and adjacent lots and tracts of land.

There also shall be submitted with the application a copy of a proposed policy of liability insurance in an amount satisfactory to the Development Services Director.

If the WECS is to be erected, maintained or operated by a person other than the owner of the lot or tract of land, the application shall be signed, also, by such other person. (Ord. 3639, 2000)

25-20-12. Special permit; Article 13 requirements.

All of the other requirements and provisions of Article 13 of this Chapter concerning proceedings on applications for a special permit, the terms of such a permit, the issuance of building permits and certificates of occupancy, and the transfer of special permits shall apply to a special permit issued under this Article. (Ord. 3639, 2000)

25-20-13. Special permit; findings; Planning Commission; additional.

The Planning Commission may approve a special permit for a WECS if it finds, in addition to the findings required for the issuance of a special permit, that the proposed use will not be detrimental

to the public health, safety and general welfare. (Ord. 3639, 2000)

25-20-14. Abandonment.

A WECS shall be deemed abandoned if not in continuous use, except during maintenance and repair or during the temporary absence of the operator. If the Development Services Director shall determine that a WECS has been abandoned within the meaning of this section, he or she shall cause to be delivered or mailed to the owner of the lot or tract of land and, if the WECS was in the possession of or operated by some other person, to such other person, a written notice of such determination and that the WECS, including the tower, shall be removed within thirty (30) days after delivery or mailing of the notice. If the notice is mailed, it shall be addressed to the person being notified at the latter's last known residence address. (Ord. 3639, 2000)

ARTICLE 21

SATELLITE EARTH STATIONS

Section

<u>25-21-1</u>	<u>Finding; City Council</u>
<u>25-21-2</u>	<u>Article; purpose.</u>
<u>25-21-3</u>	<u>Satellite earth station; location; setback; C-1, C-2, C-3, PBC, M-1 and M-2 zones.</u>
<u>25-21-4</u>	<u>Satellite earth station; O-P, R-1, R-1a, R-4, R-6 or A zones</u>
<u>25-21-5</u>	<u>Satellite earth station; number; exception, permit.</u>
<u>25-21-6</u>	<u>Satellite earth station; height; exceptions.</u>
<u>25-21-7</u>	<u>Satellite earth station; color, appearance; character.</u>
<u>25-21-8</u>	<u>Residences served; number.</u>
<u>25-21-9</u>	<u>Advertising.</u>

25-21-1. Finding; City Council.

It is found and declared that the use of satellite earth stations, as an alternative means of receiving television service, is becoming common within the City and the area of the City's building and zoning jurisdiction and, particularly, outside the City's corporate boundaries, in areas out of the reach of the cable television, or where conventional television reception is poor. (Ord. 3639, 2000)

25-21-2. Article; purpose.

The purpose of this Article is to regulate the occupancy and use of lands by satellite earth stations for protection of the public health, safety and general welfare, including but not limited to that of owners and occupants of adjacent lands, in a manner that will facilitate the effective and efficient use of such stations. (Ord. 3639, 2000)

25-21-3. Satellite earth station; location; setback; C-1, C-2, C-3, PBC, M-1, and M-2 zones.

In any C-1, C-2, C-3, PBC, M-1, or M-2 zone, a satellite earth station may be located anywhere on a lot or tract of building; provided, the location shall comply with all setback requirements of the zone in which the station will be located and, if the location will be in a commercial or industrial zone which abuts a residential zone, the station shall be set back not less than ten (10) feet from any boundary with the residential zone and shall be effectively screened from view from any property in the residential zone by a solid fence, wall or hedge on the property on which the station will be

located. (Ord. 3951, 2007)

25-21-4. Satellite earth station; O-P, R-1, R-1a, R-4, R-6, or A zones.

In any O-P, R-1, R-1a, R-4, R-6, or A zone, a satellite earth station may be located only in the rear yard of a lot or tract, shall be set back from every lot or tract line not less than five (5) feet, and shall be located not less than five (5) feet distant from any part of a residential building (including an attached garage). Provided, if a usable satellite signal cannot be obtained (as determined by the Development Services Director or other City employee designated by the City Manager) from the rear yard, the station may be placed upon the roof of the dwelling if the height of the station in such location does not exceed any height restriction contained in this Article. (Ord. 3951, 2007)

25-21-5. Satellite earth station; number; exception, permit.

Not more than one satellite earth station may be installed on a lot or tract of land in an R zone, or on two (2) or more lots or tracts of land in such a zone which are occupied or used in common; provided, the Planning Commission may issue a special permit for installation of one (1) or more additional such stations in a planned unit development if the Commission shall determine that technological considerations (including, but not necessarily limited to, the adequacy of signals received) reasonably require use of an additional station or stations. (Ord. 3639, 2000)

25-21-6. Satellite earth station: height; exceptions.

No satellite earth station, including the platform or structure upon which it is mounted, shall exceed in height the following restrictions, or restrictions upon the height of structures generally in the zone, whichever is the more restrictive:

- (1) in any C-1, C-2, C-3, PBC, M-1, or M-2 zone, twenty (20) feet,
- (2) in any O-P, R-1, R-1a, R-4, R-6, or A zone, fifteen (15) feet.

Provided the foregoing restrictions in this section shall not apply to a commercial or public satellite earth station that is a part of, or mounted on, a communication tower. (Ord. 3951, 2007)

25-21-7. Satellite earth station; color; appearance; character.

All satellite earth stations shall be neutral in color and to the extent reasonably possible, as determined by the Code Administrator II, shall be compatible with the surrounding neighborhood in appearance and character. (Ord. 3639, 2000)

25-21-8. Residences served; number.

In any R zone, except in the case of a planned unit development or an apartment complex under one ownership, a satellite earth station may serve only one residence. (Ord. 3639, 2000)

25-21-9. Advertising.

No form of advertising shall be placed on any part of a satellite earth station, except a small manufacturer's identification plate and, except in the case of a station operated by a television or radio station, the call letters or numbers of the latter station. (Ord. 3639, 2000)

ARTICLE 22

LANDSCAPING

Section

25-22-1	Definitions.
25-22-2	Purpose.
25-22-3	Applicability.
25-22-4	Landscaping Requirements.
25-22-5	Materials and Installation Standards.
25-22-6	Bufferyard Provisions.
25-22-7	Screening Standards.
25-22-8	Parking Lot Landscaping.
25-22-9	Tree Plantings.
25-22-10	General Provisions.

25-22-1. Definitions.

Wherever used in this Article, the following terms shall have the meanings stated in this Section unless the context clearly indicates otherwise:

Bufferyard: A landscaped area intended to separate and partially obstruct the view of two (2) adjacent land uses or properties from one (1) another.

Impervious coverage area: The total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition.

Landscape: To change the natural features of a plot of ground so as to make it more attractive by adding lawns, trees, bushes or other decorative items.

Landscaped Area: The area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.

1. *Interior Landscaped Area:* Any landscaped area within a site exclusive of required perimeter landscaping.
2. *Perimeter Landscaped Area:* Any required landscaped area that adjoins the exterior boundary of a lot, site or common development.

Less Intensive Zoning District: Any zoning district which appears above another zoning district in the following list is less intensive than the other district. For example, AR Agricultural Residential is less intensive than C-1 Central Business District.

- A Agricultural.
- AR Agricultural Residential.
- R-1 Single Family.
- R-1a Single Family.
- R-1b Rural Residential Estate Zone.
- R-4 Heavy Density Multiple Family.
- R-6 Mobile Home.
- O-P Office and Professional.

PBC Planned Business Center.
C-1 Central Business District.
C-2 Neighborhood Commercial.
C-3 Heavy Commercial.
M-1 Light Manufacturing and Industrial.
M-2 Heavy Manufacturing and Industrial

More Intensive Zoning District: Any zoning district which appears below another zoning district in the list which appears in the definition of “Less Intensive Zoning District” in this Section is more intensive than the other district. For example, C-1 Central Business District is more intensive than AR Agricultural Residential. (Ord. 3951, 2007)

25-22-2. Purpose.

The provisions of this Article provide additional guidance on the development of sites within Scottsbluff by addressing landscaping and screening requirements. The provisions in this Article are designed to improve the appearance of the community, buffer potentially incompatible land uses from one another, and conserve the value of properties within the City of Scottsbluff and its extra-territorial jurisdiction. The provisions in this Article are further intended to expedite development approval by including predictable, uniform standards for landscaping.

25-22-3. Applicability.

The provisions of this section shall apply to all new development on each lot or site upon application for a Preliminary or Final Plat, Planned Unit Development, or building permit, except for the following:

- A. Reconstruction or replacement of a lawfully existing use or structure following a casualty loss.
- B. Remodeling, rehabilitation, or improvements to existing uses or structures which do not substantially change the location of structures, parking, or other site improvements.
- C. Additions or enlargements of existing uses or structures which increase floor area or impervious coverage area by less than twenty percent of the building established on the site on the effective date of this Ordinance. Where such cumulative additions or enlargements are twenty percent or greater, these provisions shall apply only to that portion where the new development occurs.
- D. Lots unable to meet minimum requirements established for depth of landscaping, buffer zones, and parking requirements will be reviewed and approved by Development Services staff on a case-by-case basis as they are submitted for review of the new development. (Ord. 4072, 2012)

25-22-4. Landscaping Requirements.

- (A) Depth of Landscaping. Landscaping shall be required adjacent to each street property line and shall extend from the right-of-way to a minimum depth inward of ten feet on private property for all land uses and zoning classifications. Provided however, that this requirement shall not be applicable to land in the C-1 zone and to land which is in a Planned Unit Development and which is used for single family detached or attached (duplexes or townhouses) residential uses.
- (B) Obstructions. Landscape areas required by this ordinance shall not be obstructed by any type or size of fence.
- (C) Inconsistent setback provision. In the event that the provisions of this section are inconsistent with any setback requirement applicable to a particular parcel, the provisions of this section shall

control.

25-22-5. Materials and Installation Standards.

A. Official List of Recommended and Prohibited Plant Materials. Plantings shall be used in required landscaped areas consistent with the Official List of Recommended and Prohibited Plant Materials, provided through the office of the City Planner. All plant materials shall conform in size, species and spacing with this section of the ordinance.

B. Minimum Tree and Shrub Sizes.

1. Evergreens shall be a minimum of five to six feet in height, measured from the top of the root ball to the top of the tree.
2. Streetscape, or large, deciduous trees shall be a two inches caliper or larger, measured twelve inches above the root ball.
3. Small, or ornamental, deciduous trees shall be a one and one-half inch caliper or larger, measured twelve inches above the root ball.
4. Shrubs, if used, shall be two gallon size or greater, or eighteen to twenty four inches in height if balled and burlapped.

C. Use of Inorganic Landscaping Materials

1. No artificial trees, shrubs, plants or turf shall be used to fulfill the minimum requirements for landscaping. Inorganic materials, such as stone or decorative pavers, may be used provided that such material does not comprise more than twenty-five percent of the minimum required landscaped area. When calculating the area to determine how much inorganic material may be used, the area of driveways and walkways shall not be counted.
2. Loose rock shall not be permitted within any required landscaped area which is within 10 feet of a traveled street surface.

25-22-6. Bufferyard Provisions.

A. Applications. These provisions apply when use is established in a more intensive zoning district which is adjacent to a less intensive zoning district. The owner, developer, or operator of the property in the more intensive zoning district shall install and maintain a twenty-foot deep landscaped bufferyard on his/her lot or site. Bufferyards are not required on single-family, duplex or townhouse use types in the more intensive zoning district.

B. Landscaping in the Bufferyard. Each required bufferyard shall be landscaped. Each bufferyard shall be landscaped with a minimum of one tree for each five hundred square feet of bufferyard area. The majority of trees shall be evergreens. Each bufferyard shall be free of paved areas, access ways, and storage sites. Required trees must be planted in a manner to form a screen.

25-22-7. Screening Standards.

A. Application. Screening is required when one or more of the following conditions is visible from a street right-of-way, or faces toward the boundary of a less intensive zoning district:

1. Outdoor storage areas, cargo containers or storage tanks, unless otherwise screened.
2. Loading docks, refuse collection points, and other service areas.
3. Major machinery or areas housing a manufacturing process.
4. Major on-site traffic circulation areas or car, truck and/or trailer parking, including vehicle sales lots.

5. Sources of glare, noise, or other environmental effects.
6. Bailing or stockpiling of cardboard or other shipping or packaging materials.
7. Surface parking lots with one hundred fifty or more stalls directly adjacent to less intensive districts.

B. Opaque Barrier

A six foot opaque barrier shall be provided which visually screens the conditions listed in the immediately preceding paragraph from less intensive uses as follows:

1. A solid wood, PVC, and/or masonry fence or wall at least six feet in height. Construction materials and type should match building exteriors or planned on-site fencing materials.
2. A landscaping screen, using evergreen or deciduous materials, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six feet within three years of planting.
3. A landscaped earth berm with a maximum slope of three to one, rising no less than six feet above the existing grade of the lot line separating the zoning districts.
4. Any combination of these methods that achieves a cumulative height of six feet.

C. Screening: Effect on Drainage

Screening shall not adversely affect surface water drainage.

D. Permitted Interruptions of Screening

Screening may be interrupted to provide access drives to service areas or for loading purposes to buildings. Such breaks or interruptions shall not exceed twenty percent (20%) of the length of the required screened area.

25-22-8. Parking Lot Landscaping.

A. Landscape and Screening Requirements. Unless otherwise noted, each off-street parking facility of over six thousand square feet shall comply with the following regulations:

1. Each off-street parking facility shall provide a minimum landscaped buffer along any street property line as set forth in 25-22-4.
2. Each parking facility that abuts a residential district shall provide a twenty-foot landscaped buffer along its common property line with the residential district.
3. Any parking facility which abuts property in a residential district shall provide a fence, wall, landscape screen, or earth berm not less than four feet in height for the length of the common boundary. A grade change, terrace, or other site feature which blocks the sight line of headlights into a residential property may satisfy this requirement, subject to the determination of the City Planner.
4. Each parking facility of over six thousand square feet shall provide interior landscaped area equal to no less than five percent of the total paved area of the parking facility. Parking facilities within the M-1 and M-2 Districts shall be exempt from this requirement.
5. Landscaping or screening installed in any required landscaped area shall not obstruct the view from the off-street parking facility to any driveway approach, street, alley, or sidewalk. Landscaping shall further not obstruct any views among parking spaces and circulation ways, or visibility between vehicles and pedestrians.

25-22-9. Tree Plantings.

- A. Quantity. A required landscaped area shall be landscaped with a minimum of one tree for each five hundred square feet of required landscaped area. Trees do not need to be equally spaced. Existing trees approved for preservation shall be counted toward satisfaction of this requirement.
- B. Trees in Parking Lots. Any landscaped islands required to meet the interior landscaping requirements for parking lots shall include one two-inch caliper or larger deciduous tree, or one one and one-half-inch caliper or larger ornamental tree, unless a light pole is located within the island. Additional shrubs and/or ground cover shall be planted in each island.
- C. Bonus. Any tree of an approved species planted or maintained with a caliper of three inches or above shall count as one and one-quarter trees toward the satisfaction of the requirements of this section. An approved existing tree with a caliper of eight inches or above preserved on a site shall count as two trees toward the satisfaction of the requirements of this section.

25-22-10. General Provisions

- A. Time of Application. The provisions contained in this Section shall be applied for each individual lot or site when an application for a Preliminary or Final Plat, Planned Unit Development or a building permit is made. A Landscape Plan shall be submitted with each application and shall include a drawing and a written Landscape Management Plan. The plan shall be reviewed by the City Planner for compliance with the provisions of this section.
- B. Maintenance of Required Landscaping
1. Upon installation of required landscape materials, each owner shall take appropriate actions to ensure their continued health and maintenance. Required landscaping that does not remain healthy shall be replaced consistently with this section and the approved landscaping plan for the project.
 2. Underground irrigation shall be provided for all required landscaped areas. Areas of low water use landscaping may be included but must be indicated on plans. Irrigation water must be available for the initial two years after planting to establish low-water use landscaping.
- C. Obstruction of View. Landscaping or screening installed in any landscaped area shall not obstruct the view from or to any driveway approach, street alley or sidewalk.
- D. Earth Berm Locations. Location of earth berms shall not impede drainage patterns. Earth berms should not be located over underground public utilities.
- E. Exceptions. A development may continue to comply with the bufferyard and screening requirements in effect at the time of issuance of its original permit, regardless of whether an adjacent lot or site is subsequently rezoned to a less intensive district which would otherwise require compliance with bufferyard or screening provisions.
- F. Performance Guarantee. A performance guarantee will be required in the event a Certificate of Occupancy is issued prior to installation of all required landscaping.

ARTICLE 23 AIRPORT ZONING OVERLAY AREA

Section

[25-23-1](#) [Purpose.](#)

[25-23-2](#) [Definitions.](#)

<u>25-23-3</u>	<u>Adoption of Western Nebraska Regional Airport, Airport Layout Plan.</u>
<u>25-23-4</u>	<u>Airport Hazard Area Description.</u>
<u>25-23-5</u>	<u>Zone Descriptions.</u>
<u>25-23-6</u>	<u>Height Restrictions.</u>
<u>25-23-7</u>	<u>Use Regulations.</u>
<u>25-23-8</u>	<u>Non-Conforming Uses.</u>
<u>25-23-9</u>	<u>Administration and Enforcement of Article.</u>
<u>25-23-10</u>	<u>Permit; Required and Exceptions</u>
<u>25-23-11</u>	<u>Appeals</u>

25-23-1. Purpose.

This Article shall be known as airport zoning regulations. These regulations are intended to provide for the safe operation of aircraft into and out of Western Nebraska Regional Airport, William G. Heilig Field.

25-23-2. Definitions

The following definitions shall be used for terms contained in this article that are not otherwise defined.

Airport. Western Nebraska Regional Airport, William G. Heilig Field, Scottsbluff, Nebraska.

Airport Elevation. William G. Heilig: 3,944 feet MSL.

Airport Encroachment. Any structure, tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at Western Nebraska Regional Airport, William G. Heilig Field, or is otherwise hazardous to the operation of aircraft.

Airport Encroachment Area. Any area of land or water upon which an airport hazard might be established if not prevented by this Article.

Departure Limit. The horizontal line perpendicular to the runway center line, established as the beginning of the usable takeoff runway.

Landing Area. The area of the airport intended for use for the landing, taking off or taxiing of aircraft.

Landing Threshold. A horizontal line, perpendicular to the runway center line, established as the beginning of the usable landing runway.

Mean Sea Level. The United States Coast and Geodetic Survey zero datum plane, abbreviated "MSL".

Non-conforming Use. Any structure, tree or use of land which does not conform to the requirements of this Article, or an amendment thereto, as of the effective date of this Article or amendment.

Person. Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee or other similar representatives thereof.

Runway. That portion of the landing area intended for the landing and/or taking off of aircraft.

Structure. Any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

Tree. Any object of natural growth, except farm crops which are cut at least once a year, and except shrubs, bushes or plants which do not grow to a height of more than five feet.

Zoning Reference Point. The point of intersection of the center line of William B. Heilig Field, Runway 12/30 with the center line of William B. Heilig Field, Runway 5/23.

Locations and Borders. Vicinity of the airport located in Sections 16, 17, 20 and 21, Township 22, Range 54, Scotts Bluff County, Nebraska.

Electrical Facility. Electrical facility means an overhead electrical line, including, poles or other supporting structures, owned or operated by an electric supplier as defined in Neb. Rev. Stat. §70-1001.01, for the transmission or distribution of electrical power to the electric supplier's customers.

Existing Runway. Existing runway means an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.

Proposed Runway. Proposed runway means an instrument runway or a visual runway that has not been constructed and is not under construction, but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to the Federal Aviation Administration.

Political Subdivision. Political subdivision means any municipality, city, village, or county. (Ord. 4173, 2015)

25-23-3. Adoption of Western Nebraska Regional Airport, Airport Layout Plan

In order to define the dimensions of the zones established by these regulations, the City of Scottsbluff hereby adopts the Airport Project No. 3-31-0072-22, Airport Layout Plan, dated May 16, 1994. All subsequent adopted Airport Layout Plans are incorporated by reference. (Ord. 4173, 2015)

25-23-4. Airport Hazard Area Description

The Airport Hazard Area shall consist of Operation Zones, Approach Zones, Turning Zones and Transition Zones as described in this article. (Ord. 4173, 2015)

25-23-5. Zone Description

1. The **Operation Zones** are longitudinally centered on each existing or proposed runway.

A. **Length.** For existing and proposed paved runways, the operation zones begin and end 200 feet beyond the end of each runway. For existing and proposed turf runways, the operation zones begin and end at the runway ends.

B. **Width.** For existing and proposed instrument runways, the operation zones are 1,000 feet wide, with 500 feet on either side of the runway centerline. For all other existing and proposed runways, the operation zones are 500 feet wide, with two hundred fifty feet on either side of the runway centerline.

C. **Height.** The height limit of the operation zones is the same as the height of the nearest point on an existing or proposed runway or the surface of the ground, whichever is higher.

2. The **Approach Zones** extend from the end of each operation zone and are centered along the extended runway centerlines. An approach zones' dimensions are as follows:

A. Instrument Runways.

- I. **Length and Width.** The approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is one thousand (1,000) feet wide at the end of the nearest runway (i.e. adjacent to the operation zone) and expands uniformly to sixteen thousand eight hundred forty (16,840) feet wide at the farthest end of the zone (i.e. ten miles (10) from the operation zone).
- ii. **Height Limit.** The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every fifty feet horizontally (50:1), except that the height limit shall not exceed one hundred fifty (150) feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at the runway end. At three (3) miles from said operation zone, the height limit resumes sloping one foot vertically for every fifty feet horizontally (50:1) and continues to the ten (10) mile limit.

B. Visual Runways.

- I. **Length and Width.** An approach zone extends from the operation zone to the limits

of the turning zone, measured along the extended runway centerline. The approach zone is five hundred (500) feet wide at the end of the zone nearest the runway (i.e. adjacent to the operation zone) and expands uniformly so that at a point on the extended runway centerline three (3) miles from the operation zone, the approach zone is three thousand seven hundred feet wide.

- ii. **Height.** The highest limit of an approach zone begins at the elevation of the runway and for which it is the approach and rises one foot vertically for every forth (40) feet horizontally, except that the height limit shall not exceed one hundred fifty (150) feet above the nearest existing or proposed runway and elevation within three miles of the end of the operation zone at the runway end.
3. The **Transition Zones** extend outward at a right angle to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally (7:1). The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of one hundred fifty (150) feet above the highest elevation on the existing or proposed runway.
4. The **Turning Zones** are located at a distance of three miles (3) radius from the corners of the operational zone and each runway and conceding adjacent arcs with tangent lines, excluding any area within the operation zone, approach zone or transition zone. The height limit of the turning zone is one hundred fifty feet above the highest elevation on the existing or proposed runway.

(Ord. 4173, 2015)

25-23-6. Height Restrictions

No building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in Section 25-23-5. (Ord. 4173, 2015)

25-23-7. Use Regulations

Notwithstanding any other provision of this article, no use may be made of any land within any runway area zone, approach-departure zone, horizontal zone, conical zone, or transition zone in any manner as to create electrical interference with the radio or radar communication or navigation aids between the airport and aircraft; make it difficult for air crews to distinguish between airport lights and others; result in glare in the eye of air crews using the airport, impair visibility in the vicinity of the airport; or otherwise endanger the landing, taking off or maneuvering of a aircraft within the zones in this article. (Ord. 4173, 2015)

25-23-8. Non-conforming Uses

1. Continuation of Lawful Non-conforming Uses. Any land use lawfully existing on the effective date of this article may continue, subject to the provisions of this section.

2. Enlarging Degree of Non-conformance. No non-conforming structure or tree shall be built, replaced, altered, replanted or allowed to grow to a height that increases the degree of non-conformance or that violates the height limits established by this article.
3. Damage or Destruction. (a) Should a structure occupied by a lawful non-conforming use be damaged to the extent that the cost of restoration exceeds 50 percent of the replacement cost of the structure, the non-conforming use shall no longer be permitted; (b) Any non-conforming tree which has been damaged or decayed to the extent of 50 percent or more shall be removed.
4. Abandonment. If any structure or property containing a lawful non-conforming use becomes vacant or unused for a continuous period of six months or longer, any subsequent use must conform to all airport zoning regulations.
5. Unlawful non-conforming Uses. These provisions shall not be interpreted as authorization for or approval of the continuation of any structure, use or tree in violation of any zoning regulations in effect on or before the effective date of this article.

(Ord. 4173, 2015)

25-23-9. Administration and Enforcement of Article

Enforcement by Appropriate Subdivision. The location of various encroachment areas is within the City of Scottsbluff. It shall be the duty of the City of Scottsbluff Development Services Department ("Development Services Department") to enforce this article, and the Development Services Department is appointed the "administrative agency" provided for in R.R.S., 1943, §3-319. The Development Services Department shall have all the powers and perform all duties as provided by the Airport Zoning Act.

25-23-10 Permit; Required and Exceptions.

1. Permit Required. It shall hereafter be unlawful to erect, construct, reconstruct, repair, or establish any building, transmission line, pole, tower, chimney, wires, or any other structure or appurtenance within the Hazard Area without first obtaining a permit from the Development Services Department upon a form furnished by it. Any application shall be promptly considered and granted or denied. Applications for action by the Board of Adjustment shall be transmitted in accordance with the applicable provisions of the Airport Zoning Regulations, appropriate City and/or County Ordinances, and/or State Law. It shall also be unlawful to plant or replant any tree or other object of natural growth without the necessary permit.
2. Permit Exceptions. Within the outer area of the Approach Zones and within the Turning Zones, no permit shall be required for any construction or planting that is not higher than seventy-five (75) feet above the nearest existing or proposed runway end.

The repair, reconstruction, or replacement of non-conforming electric facilities will be permitted in compliance with neb. Rev. Stat. §3-311(3).

3. Location Sketch and Zoning Map. The boundaries, Approach Zones, Operations Zone, Transition Zones, and Turning Zones of the airport are indicated on the Zoning Map that accompanies and is made a part of this article by reference. A copy of the airport hazard area zoning regulations shall at all times be on file in the office of the Airport Director located at Western Nebraska Regional Airport.

(Ord. 4173, 2015)

Section 25-23-11 Appeals.

1. Designation of Board of Adjustment. The City of Scottsbluff Board of Adjustment shall be the Board of Adjustment with respect to this article, and shall have and exercise the powers conferred by R.R.S. 1943, §3-320, and such other powers and duties as are conferred and imposed by law. Any person aggrieved or affected by any decisions or actions made in administration of this article may appeal such decision or action to the Board of Adjustment. Any appeal taken pursuant to this article shall be by the procedure established by law.
2. Powers of the Zoning Board of Adjustment. The City of Scottsbluff's Board of Adjustment shall have the following powers:
 - (1) To hear and decide appeals from any order, requirement or decision made by the Development Services Department in the enforcement of this article.
 - (2) To hear and decide any special exemptions to the terms of this article which the Board of Adjustment may be required to pass under this article.
 - (3) To hear and decide specific variances under R.R.S. 1943, §3-312.
3. Appeal from the decisions of Board of Adjustment. Any person aggrieved or affected by a decision of the Board of Adjustment may appeal to the District Court for Scotts Bluff County, Nebraska, in the manner provided in R.R.S. 1943, §3-324 et seq.

(Ord. 4173, 2015)

ARTICLE 24

WIRELESS COMMUNICATIONS FACILITIES

Section

[25-24-1 Intent and Purpose](#)

[25-24-2 Definitions](#)

[25-24-3 Zoning; Towers; Height Restrictions.](#)

[25-24-4 Conditional Use Permits](#)

[25-24-5 Preferred Areas](#)

[25-24-6 Tower Placement](#)

[25-24-7 Compliance With Zoning, FAA and FCC Regulations](#)

[25-24-8 Provider Cooperation](#)

[25-24-9 Tower and WCF Site Maintenance](#)

[25-24-10 Tower Inactivity](#)

25-24-1. Intent and Purpose.

The purpose of the WCF regulations is to encourage and promote wireless communications coverage for all areas of the City while minimizing the visual, environmental and neighborhood impacts. The goals include providing personal wireless services throughout the City quickly, effectively and efficiently while ensuring that basic matters such as FAA, FCC and Airport Zoning requirements are met as well as addressing security, decommissioning and preferred locations.

More preferred locations include commercial, industrial and agricultural areas and less preferred locations include residential areas. More preferred locations in residential areas include public lands, proximity to existing overhead utility corridors and proximity or attachment to existing structures that might assist with screening.

25-24-2. Definitions.

For the purposes of this Article, certain terms and words are defined.

Antenna means any exterior device designed and intended for telephonic, radio, data, internet or television communications through the sending and/or receiving of electromagnetic waves. For purposes of this Article the term “antenna” shall not include an antenna used by an amateur radio operator nor an antenna or satellite dish used for the private or non-commercial reception of television or radio signals.

Antenna Height means the vertical distance from natural grade to the top of all appurtenances.

Antenna Support Structure means any building or structure other than a tower which can be used for location of telecommunications facilities.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

PWS means Personal Wireless Service Provider, which means a personal wireless service facility owner, operator, lessee or any officer or employee thereof.

Tower(s) means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers.

Utility Sublot means a lot that may be smaller than the minimum allowed in a District or otherwise out of standard compliance. A Utility Sublot must have legal vehicular access. Water may be allowed for property maintenance, but there shall be no sewer service allowed.

WCF means Wireless Telecommunications Facility.

WCF Site means a tract or parcel of land that contains the personal wireless service facilities including any antenna, support structure, accessory building and parking, and may include other uses associated with and ancillary to personal wireless services.

25-24-3. Zoning; Towers; Height Restrictions.

(a) Antennas in all Zoning Districts may be allowed after administrative review and approval of the appropriate Planning and Building Official when attached to existing structure, including roof-tops, building faces, water tower or existing utility structure provided the antenna does not exceed 12 feet in height above the existing structure and blends in with said structure.

(b) This Article recognizes two types of Towers associated with PWS: those up to 75 feet in height, which are constructed primarily for local distribution and reception of wireless signals; and those greater than 75 feet in height, which are constructed primarily for the concentration and transmission of signals to and from other towers.

(c) Towers of any height shall be a conditionally permitted use by special review in A Agricultural and AR Agricultural Residential zones.

(d) Except as noted in (e) and 25-24-7, Towers over 75 feet in height shall not be affected by the ordinances set forth in this Article.

(e) Towers no greater than 75 feet in height shall be a conditionally permitted use by special review in all Zones, except where current zoning permits Towers as a use by right. However, allowances may be made to Towers exceeding 75 feet in height if such Towers must be extended due to local circumstances or to accommodate co-location by other PWS. The conditions set forth in this Article shall apply to Towers.

25-24-4. Conditional Use Permits.

Applications for Conditional Use Permits (CUP) shall include the following: The legal description of the parcel upon which the PWS facilities are to be located; a survey of the parcel by a licensed surveyor; a scaled site plan clearly indicating the location, type and height of proposed Tower; adjacent land uses and zoning; adjacent roadways and proposed means of access. The site plan shall indicate the antenna, antenna support structure, building, fencing, buffering and all other items required in this Article.

25-24-5. Preferred Areas.

There are more preferred areas for Towers and less preferred areas for Towers. More preferred areas include; parks, public lands, proximity to existing overhead utility corridors and proximity to what might be termed “shadow” structures, such as churches, schools and public facilities, especially those that are multi-story. Less preferred areas might include subdivisions that are wholly served by underground utilities.

25-24-6. Tower Placement.

(a) Towers, where possible, shall be constructed on existing utility easement and rights-of-ways, subject to existing utility restrictions, such as areas where underground utilities are required.

(b) Towers may be constructed on private land; as a permanent easement, as a land rental arrangement or on a lot owned by the PWS. Creation of utility-type sub-lots will not be subject to minimum lot size as set forth in Chapter 20 of the Municipal Code, but will be subject to access requirements and no water service.

(c) Required setbacks will be determined on individual site bases through review of each Conditional Use Permit. Collapsible Tower design may be required in certain instances.

(d) Towers may be built on municipal land subject to the conditional use permit process and subject

to such legal and administrative contracts as deemed appropriate and necessary by the Planning and Development Official.

(e) Towers may be required to blend in and enhance comparability with adjacent land uses as reasonably feasible.

(f) Towers must be enclosed and secured by a chain-link fence or equivalent, of a minimum of six feet in height, however an appropriate privacy-type fence may be required to improve compatibility in residential neighborhoods. Anti-climb protection must be installed to prevent, to the extent possible, unauthorized access. The security fence must enclose all components of the site, including footings, guy wires (if present), cabinets, equipment building and back-up generator. No property line setbacks are automatically required for Towers in this category, however, the security fence enclosure must be adequate for the safe access and maintenance of the Tower and its equipment.

25-24-7. Compliance With Zoning, FAA and FCC Regulations.

PWS must provide evidence that proposed Towers have met all applicable regulations, including local Airport Zoning, prior to construction and be Compliant with E-911 Public Safety Access Point. PWS must also submit an airport obstruction evaluation/airport airspace analysis (FAA Form 7460-1) aeronautical study to FAA for determination of Tower obstruction to aviation operations. An FAA approved airspace analysis report shall be submitted to the Planning and Development Official prior to any Tower construction commencing.

25-24-8. Provider Cooperation.

(a) No PWS shall act to exclude any other PWS from using the same facility, building, structure or location. PWSs shall cooperate in good faith to achieve co-location of facilities and equipment with other PWSs.

(b) Upon request by the City, a PWS shall provide evidence why co-location is not feasible.

25-24-9. Tower and WCF Site Maintenance.

(a) Any Tower approved in this Article must be maintained in a manner consistent with generally accepted industry practices. A tower may be inspected at any time, subject to approved access by the service provider, to insure the safety of the general public. Any deficiencies in structure or operation shall be promptly remedied.

(b) The property and WCF Site shall be maintained in a reasonable manner and be kept weed free; options can include rock, mulch, landscaping and maintenance or any combination thereof.

25-24-10. Tower Inactivity.

A PWS or its successors or assigns shall promptly remove a Tower and return the WCF Site to its pre-construction conditions, should a Tower be decommissioned or otherwise deemed unnecessary or unusable.

