

## ARTICLE 7: SUPPLEMENTAL REGULATIONS

### Section 7.01 Sign Regulations

#### 7.01.01 Purpose

The purpose of these sign regulations are: to encourage the effective use of signs as a means of communication in the city; to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations. These sign regulations are adopted under the zoning authority of the city in furtherance of the more general purposes set forth in the zoning ordinance.

#### 7.01.02 Applicability

A sign may be erected, placed, established, painted, created, or maintained within the city and the city's extraterritorial zoning jurisdiction only in conformance with the standards, procedures, exemptions and other requirements of these sign regulations.

#### 7.01.03 Definitions and Interpretation

Words and phrases used in this ordinance shall have the meanings set forth in Section 2. Principles for computing sign area and sign height are contained in Section 7.01.04.

#### 7.01.04 Computations

1. *Computation of Area of Individual Signs*

The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing as a whole, representation, emblem, or other display as a whole, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly identical to the display itself.

2. *Computation of Area of Multi-faced Signs*

The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one of the faces.

3. *Computation of Height*

The height of a sign shall be computed as the distance from the grade at the base of the sign, or from the grade immediately below the sign in the case of Wall Signs, at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be from finished grade. Any berms shall be construed to be a part of the sign base and added to the overall height of the sign.

7.01.05 Permitted Signs and Limitations

1. **Ground Monument**

- A. Monument signs shall be located along the frontage of the zoned lot. All signs shall be of permanent construction and are subject to the provisions of local codes and ordinances. On corner lots, the monument sign may be placed on either frontage.
- B. All ground monument signs shall be located on the same lot as the advertised use.
- C. Signs shall contain only the name or trademark of the business, building or complex which it identifies.
- D. With the exception of change panels permitted for gas stations to advertise gasoline prices, no change panels, advertising or names of individual tenants will be allowed.
- E. Setbacks for all ground monument signs are ten (10) feet, no setbacks are required in the MU-CC District.
- F. The following criteria apply to Ground Monument signs:

District	Design Limitations for Ground Monuments		
	Max. Size	Max. Height	Max. Number
TA	32 square feet	10 feet	One (1) per lot frontage
R-1	32 square feet	10 feet	One (1) per lot frontage
R-2	32 square feet	10 feet	One (1) per lot frontage
R-3	32 square feet	10 feet	One (1) per lot frontage
R-4	32 square feet	10 feet	One (1) per lot frontage
C-1	32 square feet	10 feet	One (1) per lot frontage
C-2	32 square feet	10 feet	One (1) per lot frontage
C-3	50 square feet	10 feet	Two (2) per lot frontage
MU-CC	32 square feet	10 feet	One (1) per lot frontage
I-1	32 square feet	10 feet	One (1) per lot frontage
I-2	32 square feet	10 feet	One (1) per lot frontage
PUD	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district

2. **Center Identification Signs**

- A. All Center Identification signs shall be a ground monument style sign.
- B. *A maximum of two Center Identification signs per development shall be allowed. No two signs shall be allowed closer than five-hundred (500) feet to each other on the same side of the street, measured along the edge of the street.*
- C. All Center Identification signs shall be constructed in a manner that is permanent.
- D. Acceptable materials include:
  - Exterior Insulation Finish System (EIFS)
  - Brick
  - Split face Concrete Masonry Units
  - Stone
  - Metal
  - Simulated Acrylic, or
  - Other materials provided said design is reflective of the character of the use.
- E. All Center Identification signs shall advertise only the name of the development *and/or major tenants*, unless in compliance with Subsection G below.
- F. Setbacks for all Center Identification Signs shall be twenty (20) feet along a street designated as an arterial or collector and ten (10) feet along any street designated as a local, minor or private street. Setback requirements shall not apply for Center Identification Signs within the Mixed-Use City Centre (MU-CC) Zoning District, given that such signs are not placed within the sight triangle area.
- G. Change panels and/ or changeable copy may be allowed provided:
  - Signs shall only include business names *or logos*
  - Fonts shall be similar to that of the development name
  - Said panels and / or copy match in color and material to the overall sign.
- H. *Electronic Message Boards shall only be allowed as part of a Center Identification Sign, provided the following:*

- *No more than one-half of the permitted sign area shall be used for changeable copy or electronic message board signs.*
  - *The board may be double-faced.*
  - *Each board shall be permanently installed or located.*
  - *Electronic messages shall not be animated or flash continuously (blinking) in any manner.*
  - *Electronic message boards must use automatic level controls to reduce light levels at night and under cloudy and other darkened conditions, in accordance with the standards set forth in this sub-section. All electronic message boards must have installed ambient light monitors, and must at all times allow such monitors to automatically adjust the brightness level of the electronic sign based on ambient light conditions. Maximum brightness levels for electronic message boards may not exceed 5000 nits when measured from the signs face at its maximum brightness, during daylight hours, and 500 nits when measured from the signs face at its maximum brightness between sunset and sunrise, as those times are determined by the National Weather Service.*
  - *The message cannot change copy at intervals of less than one (1) minute. Changes of message image must be instantaneous as seen by the human eye and may not use fading, rolling, window shading, dissolving, or similar effects as part of the change.*
- I. No more than 50% of the sign area or change panel area may be dedicated to advertise any single tenant.
- J. The following criteria apply to Center Identification signs:

District	Design Limitations for Center Identification Signs		
	Max. Size	Max. Height	Max. Number
TA			
R-1			
R-2			
R-3			
R-4			
C-1	100 square feet	20 feet	One (1) per main entrance but not more than two (2) per street frontage of the development
C-2	100 square feet	20 feet	One (1) per main entrance but not more than two (2) per street frontage of the development
C-3	150 square feet	24 feet	One (1) per main entrance but not more than three (3); plus, one (1) when abutting Interstate 80
MU-CC	150 square feet	24 feet	One (1) per main entrance but not more than two (2) per street frontage of the development
I-1	100 square feet	20 feet	One (1) per main entrance but not more than three (3); plus, one (1) when abutting Interstate 80
I-2	100 square feet	20 feet	One (1) per main entrance but not more than three (3); plus, one (1) when abutting Interstate 80
PUD	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district

*(Ordinance No. 883, 11-19-02) (Ordinance No. 896, 2-04-03) (Ordinance No. 1145, 5-17-11)*

3. **Wall Signs**

- A. All wall signs shall be mounted to the primary face of the use, *unless otherwise substituted by the Community Development Department. (Ordinance No. 988, 4-18-06)*
- B. For multi-tenant buildings, maximum sign size for each tenant will be based on the width of the storefront of the bay that they occupy.
- C. The following criteria apply to Wall Signs:

District	Design Limitations for Wall Signs		
	Max. Permitted Sign Area	Max. Height	Max. Number
TA	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
R-1			
R-2			
R-3			
R-4			
C-1	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
C-2	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
C-3	2.5 square feet per lineal foot of building / storefront to a Max. of 600 sq. ft.	45 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
MU-CC	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	90 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
I-1	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
I-2	1.5 square feet per lineal foot of building / storefront to a Max. of 400 sq. ft.	45 feet above grade	One (1) sign area per main frontage  More than One Frontage: Total maximum sign area shall not exceed 150% of the initial permitted sign area.
PUD	The maximum allowed within the underlying zoning district, <i>or otherwise prescribed in the approved P.U.D Plan of said lot/development.</i>	The maximum <i>building height</i> allowed <i>in the approved P.U.D Plan of said lot/development, or as otherwise prescribed in such P.U.D.</i>	The maximum allowed within the underlying zoning district, <i>or otherwise prescribed in the approved P.U.D Plan of said lot/development.</i>

(Ordinance No. 988, 4-18-06)

4. **Incidental Signs**

- A. Incidental signs shall be placed in locations along the primary face of the building.
- B. Incidental signs may be placed on a second building face, when the building has dual frontage.
- C. The following criteria apply to Incidental Signs:

District	Design Limitations for Incidental Signs		
	Max. Size	Max. Height	Max. Number
TA	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
R-1	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
R-2	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront

<b>R-3</b>	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
<b>R-4</b>	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
<b>C-1</b>	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
<b>C-2</b>	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
<b>C-3</b>	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
<b>MU-CC</b>	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
<b>I-1</b>	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
<b>I-2</b>	25 sq. ft. of area each	45 feet above grade	One (1) per forty lineal feet of storefront
<b>PUD</b>	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district

5. **Directional Signs**

- A. Directional signs may be erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic for purposes other than those of the Project Directory Signs. Example uses are arrow signs directing vehicles to a drive-thru lane or pedestrians to a building entrance.
- B. Directional signs shall contain no advertising, though may contain the business's logo.
- C. The following criteria apply to Directional Signs:

District	Design Limitations for Directional Signs		
	Max. Size	Max. Height	Max. Number
<b>TA</b>	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
<b>R-1</b>			
<b>R-2</b>			
<b>R-3</b>			
<b>R-4</b>			
<b>C-1</b>	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
<b>C-2</b>	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
<b>C-3</b>	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
<b>MU-CC</b>	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
<b>I-1</b>	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
<b>I-2</b>	6 sq. ft. of area each	3 feet above grade	One (1) per street entrance
<b>PUD</b>	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district

*(Ordinance No. 1358, 8-5-2019)*

6. **Project Directory Signs (Ordinance No. 1145, 5-17-2011)**

*In order to maintain the flow of traffic on arterial and collector roads and to promote vehicular safety, emphasis is made to limit the number of ingress and egress points off of such roads. Project directory signs are intended to direct attention to planned multi-tenant developments which are not easily accessible off of such roads and where on-premise signage for that development (or any tenants within the development) would not otherwise be visible by the motorists traveling on nearby arterial or collector roads at the closest point of access. Provisions are provided to allow project directory signs which identify the name of the particular development and/or the names of their tenants. Such signs would be supplemental to signage otherwise provided for such developments.*

*Directional signs may be erected under the following conditions:*

- A. *Access to the development is restricted. Full ingress and egress to the development off an arterial or collector road is limited by access constraints or non-existent.*
- B. *Such signs may be placed on or off-premises. All such signs shall be constructed and located, however, so as to be visible by the motorist traveling on the arterial or collector road which intersects with the local road providing access to the development.*
- C. *Setbacks for all Project Directory Signs shall be twenty (20) feet along a street designated as an arterial or collector and ten (10) feet along any street designated as a local, minor or private street.*
- D. *A maximum of two project directory signs per development shall be allowed. No two signs shall be allowed closer than five-hundred (500) feet to each other on the same side of the street, measured along the edge of the street.*
- E. *No such sign shall be allowed further than one-thousand (1,000) feet from any entity advertising on the sign using the closest straight line measurement.*
- F. *The minimum distance between a sign location and any residential zoning district shall be 50 feet.*

- G. The sign may contain the name of the development, names of tenants within the development, directional arrows and distance information. If off-premises, sign shall identify multiple businesses or industries.
- H. The size of each sign shall be a function of the number of tenants within the development. Each eight (8) square feet per principal use within the development, whichever is greater, with a maximum area of eighty (80) square feet.
- I. All such signs shall be a ground-mounted, monument-style sign.
- J. Such signs shall be subject to the design standards of the PUD or Gateway Corridor Overlay District, if within such district.

District	Design Limitations for Project Directory Signs		
	Max. Size	Max. Height	Max. Number
TA			
R-1			
R-2			
R-3			
R-4			
C-1	80 square feet	10 feet	One (1) per main entrance but not more than two (2)
C-2	80 square feet	10 feet	One (1) per main entrance but not more than two (2)
C-3	80 square feet	10 feet	One (1) per main entrance but not more than two (2);
MU-CC	80 square feet	10 feet	One (1) per main entrance but not more than two (2);
I-1			
I-2			
PUD	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district	The maximum allowed within the underlying zoning district

7. **Roof Signs**

*Roof signs shall be permitted only in the Mixed Use – City Centre District provided:*

- A. Signs shall be allowed on multi-story buildings only.
- B. A maximum of one (1) roof sign shall be allowed per lot.
- C. Signs shall be a maximum of 11 feet in height above the highest point of the roofline.
- D. Sign allowance shall be calculated at 2.5 square feet per lineal foot of building frontage to a maximum of 600 sq. ft.
- E. The use of electronic message boards shall be prohibited. Sign animation shall be limited to the slow and gradual dimming or fading of individual lights. Flashing signs will be prohibited.
- F. Where a wall sign is present on the building or structure façade, a roof sign shall be prohibited; where a roof sign is present on the building or structure façade, a wall sign shall be prohibited. This does not apply to wall signs of multi-tenant bays, or to roof signs advertising an entire development or district, rather than a specific use/occupant in the building on which the sign is placed. A maximum of two roof signs advertising the same development/district shall be permitted.

8. **Blade Signs**

*Blade signs shall be permitted only in the Mixed Use – City Centre District provided:*

- A. Signs will only be allowed for the following uses: event center, meeting hall, or publicly owned and operated facility.
- B. Signs shall be allowed on multi-story buildings only with frontage of at least 20 ft.
- C. Signs shall conform to the vertical clearance requirements of this section of the Zoning Ordinance.
- D. Animation of the message is prohibited.
- E. Signs shall have two identical faces.
- F. Only two Blade Signs shall be permitted per building.
- G. Sign allowance cannot exceed 60 square feet.

9. **Marquee Signs**  
 Marquee signs shall be permitted only in the Mixed-Use City Centre District provided:
- A. Signs will only be allowed the following uses: event center, meeting hall, or publicly owned and operated facility.
  - B. Signs shall conform to the vertical clearance requirements of this section of the Zoning Ordinance.
  - C. A maximum of one (1) marquee sign shall be allowed per building and may only be placed on the primary face of the building.
  - D. Sign allowance shall be limited to no more than ten percent (10%) of the area of the façade to which the marquee is attached.
  - E. No portion of a marquee sign shall extend vertically above the eave line.
  - F. Marquee signs with non-electronic change panels are prohibited.

10. **Other Permitted Signs**

- Canopy
- Identification
- Projecting
- Real Estate
- Nameplate
- Temporary (see Section 7.03.02)
- Window

*Subdivision (Ordinance No. 873, 10-15-02)*

*Construction (Ordinance No. 873, 10-15-02)*

Signs shall be permitted in the various districts at the listed square footage and heights according to the following schedule:

<u>Sign Type</u>	<u>Zoning District</u>	<u>TA</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>MU-CC</u>	<u>I-1</u>	<u>I-2</u>
<b>Identification</b>												
Max. Size (Square Ft.)		2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>	2 <sup>1</sup>
Max. Height (Ft.)		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Number Allowed per building		1	1	1	1	1	1	1	1	1	1	1
<b>Real Estate</b>												
Max. Size (Square Ft.)		32	6	6	6	6	32	32	32	32	32	32
Max. Height (Ft.)		6	4	4	4	4	6	6	6	6	6	6
Number Allowed per lot		2	1	1	1	1	2 <sup>7</sup>	2 <sup>7</sup>	2 <sup>7</sup>	2 <sup>7</sup>	2 <sup>7</sup>	2 <sup>7</sup>
<b>Subdivision</b>												
Max. Size (Square Ft.)		32	32	32	32	32	32	32	50	32	32	32
Max. Lot Coverage (Sq. Ft.)		2,500 <sup>4</sup>	2,500 <sup>4</sup>	2,500 <sup>4</sup>	2,500 <sup>4</sup>	2,500 <sup>4</sup>	2,500 <sup>4</sup>	2,500 <sup>4</sup>	2,500 <sup>4</sup>	2,500 <sup>4</sup>	2,500 <sup>4</sup>	2,500 <sup>4</sup>
Max. Height (Ft.)		10	10	10	10	10	10	10	15	10	10	10
Number Allowed per lot		2 <sup>5</sup>	2 <sup>5</sup>	2 <sup>5</sup>	2 <sup>5</sup>	2 <sup>5</sup>	2 <sup>5</sup>	2 <sup>5</sup>	2 <sup>5</sup>	2 <sup>5</sup>	2 <sup>5</sup>	2 <sup>5</sup>
<b>Construction</b>												
Max. Size (Square Ft.)		32	32	32	32	32	32	32	32	32	32	32
Max. Height (Ft.)		8	8	8	8	8	8	8	8	8	8	8
Number Allowed per lot		4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>	4 <sup>6</sup>
<b>Canopy</b>												
Max. Size		25% <sup>2</sup>	N	N	N	N	25% <sup>2</sup>	25% <sup>2</sup>	25% <sup>2</sup>	25% <sup>2</sup>	25% <sup>2</sup>	25% <sup>2</sup>
Max. Height (Ft.)		NA	N	N	N	N	NA	NA	NA	NA	NA	NA
Number Allowed per building		1	N	N	N	N	1	1	1	1	1	1
<b>Window</b>												
Max. Size		25% <sup>3</sup>	N	N	N	N	25% <sup>3</sup>	25% <sup>3</sup>	25% <sup>3</sup>	25% <sup>3</sup>	25% <sup>3</sup>	25% <sup>3</sup>
Max. Height (Ft.)		NA	N	N	N	N	NA	NA	NA	NA	NA	NA
Number Allowed per building/ storefront		2	N	N	N	N	2	2	2	2	2	2
<b>Projecting</b>												
Max. Size (Square Ft.)		N	N	N	N	12	12	12	12	12	N	N
Max. Height (Ft.)		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Number Allowed per tenant		1	1	1	1	1	1	1	1	1	1	1
<b>Nameplate</b>												
Max. Size (Square Ft.)		2	2	2	2	2	N	N	N	N	N	N
Max. Height (Ft.)		NA	NA	NA	NA	NA	N	N	N	N	N	N
Number Allowed per building		1	1	1	1	1						

N: not permitted

NA: Not Applicable

**(Ordinance No. 873, 10-15-02) (Ordinance No. 897, 2-04-03) (Ordinance No. 951, 3-15-05)**

1: Maximum letter height is equal to 12 inches

- 2: percentage of total Canopy area
- 3: percentage of total window area
- 4: When constructed as a landscaping element on an outlot or plat lot
- 5: Per Entrance
- 6: Maximum number equal to four (4) when every sign equals the maximum size, no maximum number when using six (6) square foot signs
- 7: On corner lots or lots one (1) acre or greater, otherwise one (1) per lot (**Ordinance No. 897, 2-04-03**)

**Note: All signs shall have a Vertical Clearance of nine (9) feet above any public sidewalk, private drive, or parking.**

**All signs shall have a Vertical Clearance of twelve (12) feet above any Public Street.**

**11. Sign type, District Permitted**

A. Signs shall be permitted in the various districts according to the following schedule:

<u>Zoning District</u>	<u>TA</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>MU-CC</u>	<u>I-1</u>	<u>I-2</u>
<b>Sign Type</b>											
<b>Building Marker</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Identification</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Temporary</b>	P	P	P	P	P	P	P	P	P	P	P
<i>Construction</i>	P	P	P	P	P	P	P	P	P	P	P
Real Estate	P	P	P	P	P	P	P	P	P	P	P
<b>Incidental</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Subdivision</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Wall</b>	P	N	N	N	N	P	P	P	P	P	P
<b>Canopy</b>	P	N	N	N	N	P	P	P	P	P	P
<b>Window</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Projecting</b>	P	N	N	N	N	P	P	P	P	P	P
<b>Name Plate</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Monument</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Billboard</b>	N	N	N	N	N	N	N	N	N	N	N
<b>Pole</b>	N	N	N	N	N	N	N	N	N	N	N
<b>Roof</b>	N	N	N	N	N	N	N	N	P	N	N
<b>Blade</b>	N	N	N	N	N	N	N	N	P	N	N
<b>Marquee</b>	N	N	N	N	N	N	N	N	P	N	N

P: permitted N: not permitted C: Conditional Use

*(Ordinance No. 873, 10-15-02)*

**12. Special Signage Conditions**

The following special conditions apply to stand-alone ATM's, Coffee Kiosks and other Kiosks.

A. Stand-alone ATM's may have the following:

- One (1) wall sign on each exterior wall provided each wall sign does not exceed ten (10) percent of the applicable exterior wall and the total shall not exceed forty (40) square feet in size.
- Where a canopy is integrated into the ATM, a canopy sign may be placed on each face of the ATM, provided the overall height of the canopy and sign do not exceed twenty-four (24) inches. In addition, the overall size of all canopy signs shall not exceed forty (40) square feet.
- Directional signage shall be contained on the ATM, painted within a drive lane or in any curbing defining a drive lane.
- All signs are subject to the required permitting process of this Ordinance.
- Said signage may be incorporated with lighting plan and backlit in order to provide for greater security on the premises.

B. Coffee Kiosks and other Kiosks may have the following:

- One wall sign per frontage, provided each wall sign does not exceed ten (10) percent of the applicable exterior wall and the total shall not exceed forty (40) square feet in size.



- Where a canopy is integrated into the Coffee Kiosks / Kiosks, a canopy sign may be placed on each face of the Coffee Kiosk / Kiosks, provided the overall height of the canopy and sign do not exceed twenty-four (24) inches. In addition, the overall size of all canopy signs shall not exceed forty (40) square feet.
- Directional signage shall be contained on the Coffee Kiosk /Kiosk, painted within a drive lane or in any curbing defining a drive lane
- Window signs limited to menu boards and daily specials shall not require a sign permit.
- All signs are subject to the required permitting process of this Ordinance, unless otherwise noted.

**7.01.06 Permits Required**

1. If a sign requiring a permit under the provision of the ordinance is to be placed, constructed, erected, or modified on a zone lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of Section 7.04.01.
2. Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign in accordance with Section 7.04.09.
3. No signs shall be erected in the public right-of-way except in accordance with Section 7.03.01.
4. No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this ordinance (including those protecting existing signs) in every respect and with the Signage Plan in effect for the property.

**7.01.07 Design, Construction, Maintenance**

All signs shall be designed, constructed and maintained in accordance with the following standards:

1. All signs shall comply with applicable provisions of the Uniform Building Code and the National Electrical Code.
2. Except for flags, temporary signs, and window signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame or structure.
3. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes and in conformance with this code, at all times.

## **Section 7.02 Signage Plans**

### **7.02.01 General Provisions**

1. No permit shall be issued for an individual sign requiring a permit unless and until an Individual Signage Plan or Master Signage Plan for the zoned lot on which the sign will be erected has been submitted to the City and approved by the Community Development Department as conforming with this section.
2. All signage plans and permits shall include the following minimum information:
  - A. Color scheme;
  - B. Lettering or graphic style;
  - C. Lighting;
  - D. Location of each sign on the buildings;
  - E. Material;
  - F. Sign proportions; and
  - G. Any other criteria required by the appropriate signage plan.

### **7.02.02 Master Signage Plan.**

For any zoned lot on which the owner proposes to erect more than three (3) signs requiring a permit, the owner shall submit to the Community Development Department a Master Signage Plan containing the following:

1. An accurate plot plan of the zone lot, at such a scale as the Community Development Department may require;
2. Location of buildings, parking lots, driveways, and landscaped areas on such zone lot;
3. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the zone lot(s) included in the plan under this ordinance and
4. An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that incidental signs need not be shown.

### **7.02.03 Showing Window Signs on Master Signage Plan.**

1. A Master Signage Plan including window signs may simply indicate the areas of the windows to be covered by window signs and the general type of the window (e.g., paper affixed to window, painted, etched on glass, or some other material hung inside window) and need not specify the exact dimension or nature of every window sign.

### **7.02.04 Limit Number of Free-Standing Signs Under Master Signage Plan.**

1. The Master Signage Plan, for all zone lots with multiple uses or multiple users, shall limit the number of freestanding signs to a total of one (1) for each street on which the zone lots shall provide for shared or common usage of such signs.

### **7.02.05 Amendment.**

1. A Master Signage Plan may be amended by filing a new Master Signage Plan that conforms to all requirements of the ordinance then in effect.

### **7.02.06 Existing Signs Not Conforming to Master Signage Plan.**

1. If any new or amended Master Signage Plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within two (2) years, all signs not conforming to the proposed amended plan or to the requirements of this ordinance in effect on the date of submission.

### **7.02.07 Binding Effect.**

1. After approval of a Master Signage Plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this ordinance. In case of any conflict between the provisions of such a plan and any other provision of this ordinance, the ordinance shall control.

## **Section 7.03 Other Signage Provisions**

### **7.03.01 Signs in the Public Right-of-Way**

No signs shall be allowed in the public right-of-way, except for the following:

1. **Permanent Signs.** Permanent signs, including:
  - A. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, advertise community events, and direct or regulate pedestrian or vehicular traffic;
  - B. Bus stop signs erected by a transit company
  - C. Informational signs of a public utility regarding its poles, lines, pipes, or facilities; and
  - D. Awning, projecting, and suspended signs projecting over a public right-of-way in conformity with the conditions of Section 1.16.

### **7.03.02 Temporary Signs**

A permit for temporary signs shall be issued only in accordance to the Master Fee Schedule and for signs meeting the following criteria:

1. *Construction and real estate signs are exempt from a temporary sign permit provided they meet the requirements set forth hereafter and in Section 7.01.05(5) of this Ordinance.*
2. Such signs shall not be in place for more than fourteen (14) consecutive days, *except that Real Estate signs may be in place until the property sale is finalized and construction signs may be in place until that construction phase is completed;*
3. No more than four (4) temporary permits shall be issued to an individual use in a calendar year;
4. *Construction Signs shall be located on the property being constructed. Advertisement on business trailers or vehicles are exempt from a temporary sign permit and size restriction, except that such trailers or vehicles must be removed when construction by that company on said property is completed.*
5. Any violation of this Section may void any future requested permits; and
6. No temporary sign shall be of such size, message, or character so to harm the public, health, safety or general welfare. *Temporary signs shall not exceed thirty-two (32) square feet. (Ordinance No. 874, 10-15-02) (Ordinance No. 898, 2-04-03)*

### **7.03.03 Emergency Signs (Permitted)**

1. Emergency warning signs erected by a governmental agency, public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

### **7.03.04 Other Signs Forfeited**

1. Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition, to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

### **7.03.05 Signs Exempt from Regulation Under this Ordinance**

The following signs shall be exempt from regulation under this ordinance:

- Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance;
- Any religious symbol;
- Any sign identifying a public facility or public / civic event, including signs for public school facilities;
- Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zone lot or parcel on which such sign is located
- Holiday lights and decorations with no commercial message;
- Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets the Manual on Uniform Traffic Control Devices standards and which contain no commercial message of any sort; and
- A political sign exhibited in conjunction with the election of political candidates. Such signs may not exceed thirty-two (32) square feet in any zone. Only four (4) political signs shall be allowed per zone lot at any one time. All such political signs shall be removed no later than (10) days after the election. *(Ordinances No. 1184, 9-18-12)*

#### 7.03.06 **Signs Prohibited Under These Regulations**

All signs not expressly permitted in these regulations or exempt from regulation hereunder in accordance with the previous section are prohibited in the city. Such signs include, but are not limited to:

1. Beacons and flashing signs;
2. Video signs;
3. Portable signs, except as allowed by a Temporary Sign Permit;
4. Pole signs;
5. Suspended signs;
6. Strings of lights not permanently mounted to a rigid background, except those exempt under the previous section;
7. Off-premises signs, except for signs located on outdoor public or quasi-public recreational areas/facilities, provided such signs are located in a manner approved by the City (such as not facing adjacent street right-of-way or residential zoning districts) and are no larger than 32 square feet.” (*Ordinance No. 951, 3-15-05*)
8. Animated signs, except for roof signs and electronic message boards, as permitted by this ordinance; and
9. Audible Signs.

### **Section 7.04 Permit Procedures**

#### 7.04.01 **General Permit Procedures**

1. The following procedures shall govern the application for, and issuance of, all sign permits under this ordinance, and the submission and review of Master Signage Plans.

#### 7.04.02 **Applications**

1. All applications for sign permits of any kind and for approval of a Master Signage Plan shall be submitted to the City on an application form or in accordance with application specifications published by the City.

#### 7.04.03 **Fees**

1. Each application for a sign permit or for approval of a Master Signage Plan shall be accompanied by the applicable fees, which shall be established in the Master Fee Schedule.

#### 7.04.04 **Completeness**

1. Upon receiving an application for a sign permit or for a Master Signage Plan, the Community Development Department shall review it for completeness. If the Community Development Department finds that it is complete, the application shall then be processed. If the Community Development Department finds that it is incomplete, the Community Development Department shall send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this ordinance.

#### 7.04.05 **Action**

Within fourteen (14) working days of the submission of a complete application for a sign permit, the Community Development Department shall either:

1. Issue the sign permit, if the sign(s) that is the subject of the application conforms in every respect with the requirements of this ordinance and applicable Master Signage Plan; or
2. Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform with the requirements of this ordinance and the applicable Master Signage Plan. In case of a rejection, the Community Development Department shall specify in the rejection the section or sections of the ordinance or applicable plan with which the sign(s) is inconsistent.

#### 7.04.06 **Permits to Construct or Modify Signs**

1. All signs shall be erected, installed, or created only in accordance with a duly issued and valid sign construction permit from the Community Development Department. Such permits shall be issued only in accordance with the following requirements and procedures.

#### 7.04.07 **Permit for New Sign or for Sign Modification**

1. An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimensions, design, structure,

and location of each particular sign, to the extent that such details are not contained on a Master Signage Plan then in effect for the zone lot.

#### 7.04.08 **Inspection**

1. The Community Development Department shall cause an inspection of the zone lot for which each permit for a new sign or for modification of an existing sign is issued during the sixth month after the issuance of such permit or at such earlier date as the owner may request. If the construction is not substantially complete at the time of inspection, the permit shall lapse and become void. If the construction is complete and in full compliance with this ordinance and the building and electrical codes, the Community Development Department shall affix to the premises a permanent symbol identifying the sign(s) and the applicable permit by number or other reference. If the construction is substantially complete but not in full compliance with this ordinance and applicable codes, the Community Development Department shall give the owner or applicant notice of the deficiencies and shall allow an additional thirty (30) days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If the construction is then complete, the Community Development Department shall affix to the premises the permanent symbol described above.
2. The permanent symbol shall remain affixed to approved sign. If removed the approved permit may become voided and said owner may be in violation and subject to any applicable fines.

#### 7.04.09 **Sign Permits — Continuing**

1. The owner of a zone lot containing signs requiring a permit under this ordinance shall at all times maintain in force a sign permit for such property. Sign permits shall be issued for individual zone lots, notwithstanding the fact that a particular zone lot may be included with other zone lots in a Master Signage Plan.

#### 7.04.10 **Initial Sign Permit**

1. An initial sign permit shall be automatically issued by the Community Development Department covering the period from the date of inspection of the completed sign installation, construction, or modification through the last day of that calendar year.

#### 7.04.11 **Lapse of Sign Permit**

1. A sign permit shall lapse automatically if the business license for the premises lapses, is revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of one hundred eighty (180) days or more and is not renewed within thirty (30) days of a notice from the city to the last permittee, sent to the premises, that the sign permit will lapse if such activity is not renewed.

#### 7.04.12 **Assignment of Sign Permits**

1. A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such application as the Community Development Department may require and paying any applicable fee. The assignment shall be accomplished by filing and shall not require approval.

#### 7.04.13 **Sign Removal Required**

1. A sign that was constructed, painted, installed, or maintained in conformance with a permit under this ordinance, but for which the permit has lapsed or not been renewed or for which the time allowed for the continuance of a nonconforming sign has expired, shall be forthwith removed, by the owner, without notice or action from the city.

#### 7.04.14 **Violations**

1. Any of the following shall be a violation of these regulations and shall be subject to the enforcement remedies and penalties provided by the La Vista Zoning Ordinance, and by state law:
  - A. To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the zone lot on which the sign is located;
  - B. To install, create, erect, or maintain any sign requiring a permit without such permit;
  - C. To fail to remove any sign that is installed, created, erected, or maintained in violation of this ordinance, or for which the sign permit has lapsed.

- D. To continue any such violation. Each day of a continued violation shall be considered a separate violation when applying the penalty portions of this ordinance.
- E. Each sign installed, created, erected, or maintained in violation of this ordinance shall be considered a separate violation when applying the penalty portions of this ordinance.

### **Section 7.05 Off-Street Automobile Storage.**

- 7.05.01 Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of two hundred fifty (250) square feet per parking space shall be used.
- 7.05.02 If vehicle storage space or standing space required in section 7.06 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Chief Building Official, the Chief Building Official may permit such space to be provided on other off-street property, provided such space lies within four hundred (400) feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. (**Ordinance No. 975, 12-20-05**)
- 7.05.03 All parking spaces for *residential, commercial, industrial, public or quasi-public uses* shall be paved with asphalt or concrete. (**Ordinance No. 975, 12-20-05**) *All parking spaces for permitted temporary uses not located on the same lot as a permitted principle use may be exempt from a paved surface but shall have access to a hard-surface road and have a rock drive for emergency vehicles.* (**Ordinance No. 994, 6-6-06**)
- 7.05.04 Parking spaces for outdoor recreational uses in the Transitional Agriculture (TA) District may have a surface of compacted gravel or crushed rock contained within a distinct border and having a depth of four inches. However, upon rezoning to a district other than TA, these parking areas shall be paved with asphalt or concrete within three (3) years. Paved parking stalls, sidewalks, and other improvements, in both number and design to comply with the Americans with Disabilities Act (ADA), the Nebraska Accessibility Guidelines, and Section 7.08 of this Ordinance, shall still be constructed within and surrounding such crushed rock parking areas. (**Ordinance No. 1433, 12-7-21**)
- 7.05.05 Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- 7.05.06 In Districts R-1, R-2, R-3, and R-4, required off-street parking shall be provided on the lot on which it is located the use to which the parking pertains. In other Districts, such parking may be provided either on the same lot or an adjacent or other lot provided the lot on which the use requiring them is located are not separated by more than three hundred (300) feet at closest points, measured along a street or streets.
- 7.05.07 Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.
- 7.05.08 Some uses may require two (2) different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require a tabulation for classrooms and assembly areas)
- 7.05.09 In Districts R-3 and R-4, multi-family, apartment, and condominium dwellings shall have a minimum of 0.5 enclosed garages per unit. The required garages may count towards the total number of parking spaces required as per Section 7.06. Multi-family, apartment, and condominium developments approved by the City prior to May 17, 2011 shall be exempt of this requirement. (**Ordinance No. 1146, 5-17-11**)

**Section 7.06 Schedule of Minimum Off-Street Parking Requirements  
(Ordinance No. 1070, 8-19-08)**

<b>Uses</b>	<b>Parking Requirements</b>
<b>Adult Entertainment Establishments</b>	One (1) space per 100 sq. feet of gross floor area; plus one (1) space per employee on peak shift
<b>Amusement Arcades</b>	One (1) space for each 100 sq. feet of gross floor area, in addition to one (1) space for each employee on the maximum shift
<b>Animal Specialty Services</b>	One (1) space per 300 sq. feet of gross floor area
<b>Bed and Breakfast/Boarding House</b>	One (1) space per rental unit
<b>Churches, Synagogues, and Temples</b>	One (1) space per 4 seats in main worship area
<b>Social clubs or Fraternal Organizations</b>	One (1) space per 500 sq. feet of gross floor area
<b>Commercial Uses</b>	
<b>Agricultural Sales / Service</b>	One (1) space per 500 sq. feet of gross floor area
<b>Automotive Rental / Sales</b>	One (1) space per 500 sq. feet of gross floor area
<b>Automotive Repair Services</b>	Three (3) spaces per repair stall
<b>Bars, Taverns, Nightclubs</b>	One (1) space per 100 sq. feet of gross floor area, including outside seating; plus one (1) space per employee on peak shift
<b>Equipment Rental / Sales</b>	One (1) space per 500 sq. feet of gross floor area
<b>Campground</b>	One (1) space per camping unit
<b>Communication Services</b>	One (1) space per 500 sq. feet of gross floor area
<b>Construction Sales / Services</b>	One (1) space per 500 sq. feet of gross floor area
<b>Convenience Store with Limited Fuel Sales</b>	One (1) space per 200 sq. feet of gross floor area; spaces adjacent to fuel pump are included in total number
<b>Food Sales (limited)</b>	One (1) space per 300 sq. feet of gross floor area
<b>Food Sales (general)</b>	One (1) space per 200 sq. feet of gross floor area
<b>General Retail Sales Establishments</b>	One (1) space per 200 sq. feet of gross floor area
<b>Laundry Services</b>	One (1) space per 200 sq. feet of gross floor area
<b>Restaurants w/ Drive-thru</b>	One (1) space per 150 sq. feet of gross floor area; plus five (5) stacking spaces for drive through window
<b>Restaurants (General)</b>	One (1) space per four (4) seats or 1 per 100 sq. feet of gross floor area, including outside seating (whichever is greater); plus one (1) space per employee on peak shift
<b>Nursing Home</b>	One (1) space per 3 beds plus 1 per employee on the largest shift.
<b>Child Care Center</b>	One (1) space per employee plus (one) 1 space per 10 children.
<b>Educational Uses, Primary facilities - Kindergarten, Elementary School, Junior High</b>	Two (2) spaces per classroom
<b>Educational Uses, Secondary Facilities - High School</b>	Eight (8) spaces per classroom plus 1 space per teacher
<b>Funeral Homes and Chapels</b>	Eight (8) spaces per reposing room
<b>Group Care Home</b>	One (1) space per 4 residents plus one additional space for each employee
<b>Health Club</b>	One (1) space per 200 sq. feet of gross floor area, plus one space for each employee on peak shift
<b>Hospitals</b>	One and one-half (1 1/2) spaces per 2 licensed beds; plus, .75 times the maximum number of employees during the largest shift
<b>Hotels and Motels</b>	One (1) space per rental unit
<b>Housing (Congregate)</b>	
<b>Assisted-living facilities</b>	One (1) space per dwelling unit plus 1 space per employee on the largest shift
<b>Duplex</b>	Two (2) spaces per dwelling unit
<b>Multi-family / Apartments / Condominiums</b>	One (1) space per bedroom ( <i>See Section 7.05.08 for additional requirements</i> ) ( <i>Ordinance No. 1146, 5-17-11</i> )
<b>Industrial Uses / Flex Space for Industrial</b>	One (1) space per 3,000 sq. feet of gross floor area
<b>Libraries</b>	One (1) space 500 sq. feet of gross floor area
<b>Medical Clinics</b>	One (1) space per 250 sq. feet of gross floor area
<b>Mobile Home Park</b>	Two (2) per dwelling unit
<b>Offices and Office Buildings</b>	One (1) space per 200 sq. feet of gross floor area
<b>Recreational Facilities</b>	One (1) space per four (4) occupants or, in the case of a nonstructural facility, one (1) space per four (4) persons the facility is intended to accommodate
<b>Residential (Single-family, attached and detached)</b>	Two (2) spaces per dwelling unit with 1 required to be enclosed
<b>Roadside Stands</b>	Four (4) spaces per stand
<b>Special and Vocational Training</b>	One (1) space per 500 sq. feet of gross floor area
<b>Theaters, Auditoriums, and Places of Assembly</b>	One (1) space per 4 seats
<b>Veterinary Establishments / Pet Health Services</b>	One (1) space for every 300 sq. feet of gross floor area (excluding floor area used for keeping and caring for large farm animals)
<b>Wholesaling / Distribution Operations</b>	One (1) space per 5,000 sq. feet of gross floor area



**Section 7.07 Off-street Parking: Shared Parking requirements**

- 7.07.01 Notwithstanding the provisions of Section 7.06, in cases of shopping centers having 400,000 or more square feet of gross floor area and where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in the center is likely to occur, compliance with the standard retail parking ratios may be decreased by the Planning Commission and City Council. Said request for a decrease in parking spaces shall be accompanied by a rezoning to a Planned Unit Development (PUD) and the request is made during the PUD application process. All regulations of the PUD District shall be adhered to within the development.
- 7.07.02 Where convention centers, conference centers, assembly halls, ballrooms, or other similar facilities are built in conjunction with a hotel, office park, or shopping center, the Planning Commission and City Council may permit the construction of fewer parking spaces, due to overlapping usage of a portion of the parking spaces. Said request for a decrease in parking spaces shall be accompanied by a rezoning to a Planned Unit Development (PUD) and the request is made during the PUD application process. All regulations of the PUD District shall be adhered to within the development.

**Section 7.08 Off-Street Parking: Parking for Individuals with Disabilities**

7.08.01 In conformance with the Americans with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided in each parking area in conformance with the table in this section. Spaces required by the table need not be provided in the particular lot. They may be provided in a different, if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured.

Total Parking Spaces	Column A Required Minimum Number of Accessible Spaces	Column B Minimum Number of Van-Accessible Parking Spaces (1 of 6 available spaces)
1 to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	2
301 to 400	8	2
401 to 500	9	2
501 to 1,000	2 percent of the total	1/6 of Column A
1,001 and over	20 plus 1 for each 100 over 1,000	1/6 of Column A

7.08.02 Except as provided in Section 7.08.02.01 of this Ordinance, access aisles adjacent to accessible spaces shall be sixty (60) inches (1525 mm) wide minimum. **(Ordinance No. 899, 2-04-03)**

7.08.02.01 One (1) in every eight (8) accessible spaces, but not less than one, shall be served by an access aisle ninety-six (96) inches (2440 mm) wide minimum and shall be designated “van accessible” as required by Section 7.08.04 of this Ordinance. The vertical clearance at such spaces shall comply with 7.08.05 of this Ordinance. All such spaces may be grouped on one (1) level of a parking structure.

Parking access aisles shall be part of an accessible route to the building or facility entrance. Two (2) accessible parking spaces may share a common access aisle.

Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with slopes not exceeding 1:50 (2%) in all directions, except for angled parking spaces which must have access aisles located on the passenger side of the parking spaces.

7.08.02.02 If passenger-loading zones are provided, then at least one (1) passenger loading zone shall comply with 7.08.06 of this Ordinance.

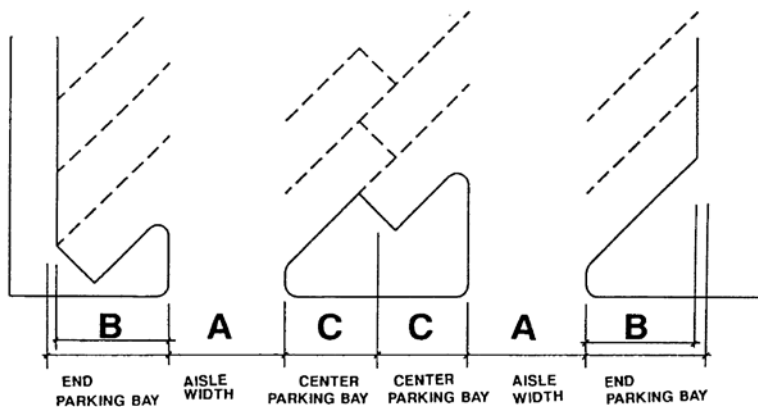
7.08.02.03 At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 7.08 of this Ordinance shall be provided in accordance with 7.08.01 of this Ordinance; except as follows:

1. Outpatient units and facilities: ten percent (10%) of total number of parking spaces provided serving each such outpatient unit or facility;
  2. Units and facilities that specialize in treatment or services for persons with mobility impairments: twenty percent (20%) of the total number of parking spaces provided serving each such unit or facility.
- 7.08.02.04 Valet parking: valet parking facilities shall provide a passenger loading zone complying with 7.08.06 of this Ordinance located on an accessible route to the entrance of the facility. Sections 7.08.01, 7.08.02.01, and 7.08.02.03 of this Ordinance do not apply to valet parking.
- 7.08.03 Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.
- 7.08.03.01 In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
- 7.08.03.02 In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closet to the accessible entrances.
- 7.08.04 Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying 7.08.02.01 shall have an additional sign “Van Accessible” mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space. ADA mandates the sign height be at least sixty (60) inches above ground surface measured from the bottom of the sign.
- 7.08.05 Minimum vertical clearance of one hundred fourteen (114) inches (2895mm)at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 7.08.02.01, provide minimum vertical clearance of ninety-eight (98) inches (2490mm) at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).
- 7.08.06 Passenger Loading Zones shall provide an access aisle at least sixty (60) inches (1525mm) wide and twenty (20) feet (240inches) (6100mm) long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

**Section 7.09 Off-Street Parking Design Criteria**

7.09.01 Standard parking stall dimensions shall not be less than nine (9) feet by eighteen (18) feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five (5) feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two (2) feet. Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

	Parking Configuration		
	90-degree	60-degree	45-degree
<b>Aisle Width (A)</b>			
One-way traffic	----	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
<b>End Parking Bay Width (B)</b>			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet	17 feet
<b>Center Parking Bay Width (C)</b>	18 feet	18 feet	16 feet



7.09.02 Minimum dimensions for a parallel parking space shall be nine (9) feet by twenty-three (23) feet.

7.09.03 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and City Council upon recommendation of the City Engineer.

**Section 7.10 Home Occupations**

The following are the minimum standards required for a Home Occupation:

- 7.10.01 *No external evidence of the home occupation with the exception of one unlighted nameplate of not more than two (2) square foot in area attached flat against the building located on local or collector streets. However, four (4) square feet in area attached flat against the building located on arterial streets.*
- 7.10.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- 7.10.03 No more than twenty-five percent (25%) of the home, *not to exceed four hundred (400) square feet*, can be used for the home occupation, *except for Child Care Home. This percentage is inclusive of any detached accessory buildings used for the Home Occupation.*
- 7.10.04 Home occupations shall be operated on-site by no more than one full-time or part-time employee, volunteer, or business partner other than the resident(s) of the dwelling unit, provided that one off-street parking space is made available and used by that non-resident employee, volunteer, or business partner.
- 7.10.05 Unless expressly permitted by a Conditional Use Permit, no retail sales are permitted from the site.
- 7.10.06 No outdoor storage is permitted.
- 7.10.07 Additional off-street parking may be required for the business.
- 7.10.08 *If home occupation is for a business office for services rendered at another location then not more than two (2) business or employee vehicles parked on or adjacent to the home occupation property at any one time; provided only one said vehicle may be allowed to park on street right-of-way. Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage; provided one*

*(1) piece of equipment shall be counted as one (1) of the two (2) business or employee vehicles allowed. For the purpose of enforcement of the home occupation provisions of this ordinance, a piece of construction equipment parked on a trailer shall be counted as a single business vehicle. A trailer being pulled by another vehicle, however, shall be counted as two (2) vehicles. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business or employee vehicles.*

- 7.10.09 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
- 7.10.10 *A Home Occupation License shall be required for Home Occupation I uses. Such license shall include, but not be limited to, the following:*
- 7.10.10.1 Application fee in accordance with the Master Fee Schedule
- 7.10.10.2 For major Home Occupations requiring a Conditional Use Permit, a minimum of seventy-five percent (75%) of the households within two hundred feet (200') of the proposed home occupation shall indicate no objections, in writing, to the operation of such home occupation. A "no objections" signature form shall be provided by the City and said residents shall sign next to their respective address.
- 7.10.10.3 A Conditional Use Permit is required for Home Occupation I uses, except Child Care Homes.
- 7.10.11 *A Conditional Use Permit is required, except for Home Occupation II uses and Child Care Homes.*
- 7.10.12 *Child Care Homes and Child Care Centers shall require a certificate (CRED 9911) signed by the State of Nebraska Fire Marshall.*
- 7.10.13 All fees shall be paid in accordance with the Master Fee Schedule.
- 7.10.14 All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebr. R. R. S. 1943, Sec. §71-1911. **(Ordinance No. 884, 11-19-02)**

## **Section 7.11 Wireless Telecommunications Facilities**

### 7.11.01 Purpose and Legislative Intent.

The Telecommunications Act of 1996 affirmed the City of La Vista's authority concerning the placement, construction, and modification of wireless telecommunications facilities. The City of La Vista finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character, and environment of the City and its inhabitants. The City also recognizes that facilitating the development of wireless service technology can be an economic development asset to the City and of significant benefit to the City and its residents. In order to ensure that the placement, construction, or modification of wireless telecommunications facilities is consistent with the City's land use policies, the City is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this section is to minimize potentially negative impacts of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the residents of the City of La Vista.

### 7.11.02 Definitions.

For purposes of this section, and where not inconsistent with the context of a particular subsection, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given here. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

- 7.11.02.01 "Accessory Facility or Structure" means an accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
- 7.11.02.02 "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.
- 7.11.02.03 "Applicant" means any person submitting an application for a permit pursuant to this Section 7.11.
- 7.11.02.04 "Co-location" means the use of an existing tower or structure to support antennas for the provision of wireless services. A replacement tower that is constructed on the same site as an existing tower will be considered a co-location as long as the new tower is no taller than the old tower and that the old tower is removed in a reasonable short time frame after the new tower is constructed.
- 7.11.02.05 "Commercial Impracticability" or "Commercially Impracticable" means the inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercially impracticable" and shall not render an act or the terms of an agreement "commercially impracticable".
- 7.11.02.06 "Completed Application" means an application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.
- 7.11.02.07 "Distributed Antenna System or DAS" means a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure, and generally serves multiple carriers. For the purposes of this Article, a distributed antenna system is considered a small wireless facility.
- 7.11.02.08 "Eligible Facilities Request" has the meaning provided in FCC 14-153.

- 7.11.02.09 “Eligible Facilities Permit” means the official zoning permit approved and issued by the Community Development Director pursuant to section 7.11.07 below in response to an application constituting an Eligible Facilities Request that does not propose a Substantial Change.
- 7.11.02.10 “FAA” means the Federal Aviation Administration, or its duly designated and authorized successor agency.
- 7.11.02.11 “FCC” means the Federal Communications Commission, or its duly designated and authorized successor agency.
- 7.11.02.12 “Height” means, when referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, including antennas or lightning protection devices.
- 7.11.02.13 “Macro Tower” means a guyed or self-supported pole or monopole greater than the height parameters prescribed that supports or is capable of supporting antennas.
- 7.11.02.14 “Modification” or “Modify” means, the addition, removal or change of any of the physical and visually discernible components or aspects of a wireless telecommunications facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications Site as a co-location is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.
- 7.11.02.15 “NIER” means Non-Ionizing Electromagnetic Radiation.
- 7.11.02.16 “Person” means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.
- 7.11.02.17 “Personal Wireless Facility” See definition for ‘Wireless Telecommunications Facilities.’
- 7.11.02.18 “Personal Wireless Services” or “PWS” or “Personal Telecommunications Service” or “PCS” shall have the same meaning as defined and used in the 1996 Telecommunications Act.
- 7.11.02.19 “Pole” means a service pole, municipally-owned utility pole, small wireless facility support pole, or other utility pole.
- 7.11.02.20 “Repairs and Maintenance” means the replacement of any components of a wireless telecommunications facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of such a facility without the addition, removal or change of any of the physical or visually discernible components or aspects of the facility that will add to the visible appearance of the facility as originally permitted.
- 7.11.02.21 “Small Wireless Facility” means any wireless facility that meets each of the following conditions: (1) the facilities (a) are mounted on structures fifty feet or less in height including the antennas or (b) are mounted on structures no more than ten percent taller than other adjacent structures; (2) each antenna associated with the deployment is no more than three cubic feet in volume; (3) all other equipment associated with the structure, whether ground-mounted or pole-mounted, is no more than twenty-eight cubic feet in volume; (4) the facilities do not require antenna structure registration under 47 C.F.R. part 17, as such regulation existed on January 1, 2019; (5) the facilities are not located on tribal lands, as

defined in 36 C.F.R. 800.16(x), as such regulation existed on January 1, 2019; and (6) the facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 C.F.R. 1.1307(b), as such regulation existed on January 1, 2019.

Small wireless facility(s) are governed and regulated by the La Vista Municipal Code Chapter 120 and La Vista Ordinance No. 1393.

- 7.11.02.22 “Small Wireless Facility Support Poles” means a pole installed by a network provider for the primary purpose of supporting a small wireless facility.
- 7.11.02.23 “Specialized Mobile Radio” or “SMR” means an analogue or digital trunked two-way radio system, operated by a service in the VHF, 220, UHF, 700,800 or 900 MHz bands.
- 7.11.02.24 “State” means the State of Nebraska.
- 7.11.02.25 “Stealth” or “Stealth Technology” means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless Telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
- 7.11.02.26 “Substantial Change” has the meaning provided in FCC Rule 14-153.
- 7.11.02.27 “Telecommunications” means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
- 7.11.02.28 “Telecommunication Site” See definition for Wireless Telecommunications Facilities.
- 7.11.02.29 “Telecommunications Structure” means a structure used in the provision of services described in the definition of ‘Wireless Telecommunications Facilities.’
- 7.11.02.30 “Temporary” means, in relation to all aspects and components of this section, something intended to, or that does not exist for more than ninety (90) days.
- 7.11.02.31 “Tower” 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, and that is not a utility pole, an alternative antenna telecommunications structure, or City-owned infrastructure, pole, or other property, or located within, on, over, under, or across City right-of-way.
- 7.11.02.32 “Utility Pole” means an upright pole designed and used to support electric cables, telephone cables, telecommunications cables, cable service cables, which are used to provide lighting, traffic control, signage, or a similar function.
- 7.11.02.33 “Wireless Telecommunications Facilities” means and includes a “Telecommunications Site” and “Personal Wireless Facility”. It means a structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit, towers of all types and kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

7.11.03 Overall Policy and Desired Goals for Eligible Facilities and Conditional Use Permits for Wireless Telecommunications Facilities.

In order to ensure that the placement, construction, and modification of wireless telecommunications facilities does not negatively impact the health and safety of the public, environmental features, the nature and character of the community and neighborhood, and other aspects of the quality of life specifically listed elsewhere in this section, the City hereby adopts an overall policy with respect to an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

- 7.11.03.01 Requiring an Eligible Facilities Permit or Conditional Use Permit for any new, co-location or modification of a wireless telecommunications facility.
- 7.11.03.02 Implementing an application process for person(s) seeking an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities.
- 7.11.03.03 Establishing a policy for examining an application for and issuing an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities that is both fair and consistent.
- 7.11.03.04 Establishing a policy for examining an application for and issuing an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities that is both fair and consistent.
- 7.11.03.05 Promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers.
- 7.11.03.06 Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse health, safety, aesthetic or visual impacts on the persons, land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall include without limitation using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
- 7.11.03.07 That in granting an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities, the City has found that the facility shall be the most appropriate site insofar as it is the least visually intrusive among those available in the City.

7.11.04 Exceptions from application requirements for Wireless Telecommunications Facilities.

Exceptions from Conditional Use Permit requirement. Except as otherwise provided by this ordinance no person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, wireless telecommunications facilities as of the effective date of this ordinance without having first applied for and obtained a Conditional Use Permit for wireless telecommunications facilities. Such requirements shall not apply if the proposed wireless telecommunications facilities are classified by the Community Development Director, or his or her designee, as:

- 1) An Eligible Facilities request that does not propose a Substantial Change, in which case the application and permitting requirements of Section 7.11.07 shall apply; or
- 2) A request for proposed installations or collocations of Small Wireless Facility(s) and/or Small Wireless Facility Support Poles as defined in Section 7.11.02. Small Wireless Facility(s) are, however, governed and regulated by the La Vista Municipal Code Chapter 120 and La Vista Ordinance No. 1393; or
- 3) One of the non-commercial exclusions delineated in 7.11.05; or
- 4) Repair and maintenance as defined in Section 7.11.02.



7.11.05 Non-Commercial Exclusions.

The following shall be exempt from Section 7.11:

- 7.11.05.01 The City's fire, police, public works or other public service facilities owned and operated by the local government and/or public entities in partnership with the local government.
- 7.11.05.02 Over-the-Air Reception Devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
- 7.11.05.03 Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications.
- 7.11.05.04 Facilities used exclusively for providing unlicensed spread spectrum technology i.e. Bluetooth or a 'Hot Spot', where the facility does not require a new tower, where the service is not to be used for commercial purposes, where there is no fee or charge for the use of the service and where the service is intended to be useable for less than a distance of 200 feet.

7.11.06 Conditional Use Permit Application and Other Requirements

- 7.11.06.01 All applicants for a Conditional Use Permit for Wireless Telecommunications Facilities shall comply with the requirements set forth in this ordinance. Applications for a Conditional Use Permit for Wireless Telecommunications Facilities must be made pursuant to Article 6 and this Article 7 of the Zoning Ordinance. Upon recommendation of the Planning Commission, the City Council is authorized to review, analyze, evaluate, and make decisions with respect to granting or not granting or revoking Conditional Use Permits for Wireless Telecommunications Facilities. The City may at its discretion delegate or designate officials or employees of the City, or other persons, to review, analyze, evaluate, and make recommendations to the Planning Commission or the City Council concerning matters involving Conditional Use Permits for Wireless Telecommunications Facilities.
- 7.11.06.02 All applications for a Conditional Use Permit for Wireless Telecommunications Facilities shall be filed with the Community Development Director's office pursuant to this section of the Zoning Ordinance.
- 7.11.06.03 The City may reject applications that are incomplete or otherwise do not meet the requirements stated herein or other applicable laws or regulations.
- 7.11.06.04 No wireless telecommunications facilities shall be installed, constructed or modified until the application is reviewed and approved by the City, and the Conditional Use Permit for Wireless Telecommunications Facilities has been issued.
- 7.11.06.05 Any and all representations made by the applicant to the City during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the City.
- 7.11.06.06 An application for a Conditional Use Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.
- 7.11.06.07 The Applicant must provide documentation to verify it has the right to proceed as proposed on the site. This would require an executed copy of a lease or other documentation

satisfactory to the City providing the Applicant a legally binding right to use the Site for the proposed purpose. If the Applicant owns the site, evidence of ownership is required.

- 7.11.06.08 The Applicant shall include a statement in writing:
1. That the applicant's proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and in compliance with all conditions of the Conditional Use Permit for Wireless Telecommunications Facilities, without exception, unless specifically granted relief by the City in writing, as well as all applicable codes, ordinances, and other applicable City, State and Federal laws, rules, and regulations;
  2. That the construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the State.
- 7.11.06.09 Where professional certifications are required in this Ordinance, such certification shall bear the signature and seal of a registered professional engineer licensed in the State.
- 7.11.06.10 In addition to all other required information as stated in this Section 7.11 or in Article 6 of this ordinance, all applications for the construction or installation of new wireless telecommunications facilities or modification of an existing facility shall contain the information hereinafter set forth.
1. A completed City of La Vista Planning and Zoning Application Form;
  2. A descriptive statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements;
  3. Documentation that demonstrates and proves the need for the wireless telecommunications facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage;
  4. The location of nearest residential structure;
  5. The location, size and height of all existing and proposed structures on the property which is the subject of the application;
  6. The azimuth, size and center-line height location of all proposed and existing antenna(s) on the supporting structure;
  7. The number, type and model of the antenna(s) proposed with a copy of the specification sheet;
  8. The make, model, type and manufacturer of the tower and design plan stating the tower's capacity to accommodate multiple users
  9. A site plan describing the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
  10. The frequency, modulation and class of service of radio or other transmitting equipment;
  11. The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;
  12. Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the Wireless Telecommunication Facility with the proposed installation will be in full compliance with the current FCC RF Emissions guidelines (NIER). If not categorically excluded, a complete RF Emissions study is required to provide verification;
  13. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;
  14. A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;

15. A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for a proposed or existing tower site and if existing tower or water tank site, a copy of the installed foundation design.

- 7.11.06.11 The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.
- 7.11.06.12 Additional requirements for an application for a New Tower
1. In the case of a new tower, the applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the City. Copies of written requests and responses for shared use shall be provided to the City in the application, along with any letters of rejection stating the reason for rejection.
  2. In order to better inform the public, in the case of a new Telecommunication tower, the applicant shall, prior to the public hearing on the application, hold a “balloon test”. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the City. The applicant shall inform the City, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 am and 4:00 pm on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday. A report with pictures from various locations of the balloon shall be provided with the application.
  3. The applicant shall examine the feasibility of designing the proposed tower to accommodate future demand for at least four (4) additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least four (4) additional antenna arrays equal to those of the applicant, and located as close to the applicant’s antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:
    1. The foreseeable number of FCC licenses available for the area;
    2. The kind of wireless telecommunications facilities site and structure proposed;
    3. The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
    4. Available space on existing and approved towers.
- 7.11.06.13 Upon completing construction and before the issuance of the Certificate of Compliance, to ensure the tower was constructed as permitted, the Applicant is to provide signed documentation of the Tower condition per the requirements of ANS/TIA/EIA-222 (adopted by reference in the building code) Annex for Tower Maintenance, Condition Assessment, and Inspection Procedures. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.

- 7.11.06.14 The owner of a proposed new tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other Wireless service providers in the future, and shall:
1. Respond within 60 days to a request for information from a potential shared-use applicant;
  2. Negotiate in good faith concerning future requests for shared use of the new tower by other Telecommunications providers;
  3. Allow shared use of the new tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
  4. Failure to abide by the conditions outlined above may be grounds for revocation of the Conditional Use Permit.
- 7.11.06.15 The Applicant shall provide certification with documentation (structural analysis) including calculations that the Telecommunication Facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads.
- 7.11.06.16 If the application is for a co-location or modification of an existing Tower, the Applicant is to provide signed documentation of the Tower condition per the requirements of ANS/TIA/EIA-222 (adopted by reference in the building code) Annex for Tower Maintenance, Condition Assessment and Inspection Procedures. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.
- 7.11.06.17 All proposed wireless telecommunications facilities shall contain a demonstration that the Facility will be sited so as to minimize visual intrusion as much as possible, given the facts and circumstances involved and will thereby have the least adverse visual effect on the environment and its character and on the residences in the area of the wireless telecommunications facility.
- 7.11.06.18 If the application is for a new tower, an antenna attachment to an existing structure, or modification adding to a visual impact, the applicant shall furnish a Visual Impact Assessment, which shall include:
1. If a new tower or increasing the height of an existing structure is proposed, a computer generated “Zone of Visibility Map” at a minimum of one mile radius from the proposed structure, with and without foliage shall be provided to illustrate locations from which the proposed installation may be seen.
  2. Pictorial representations of “before and after” (photo simulations) views from key viewpoints both inside and outside of the City as may be appropriate, including but not limited to State highways and other major roads; parks; other public lands; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at the pre-application meeting. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure.
  3. A written description of the visual impact of the proposed facility including; and as applicable the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
- 7.11.06.19 The Applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility.

- 7.11.06.20 The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the City.
- 7.11.06.21 All utilities at a wireless telecommunications facilities site shall be installed underground whenever possible and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
- 7.11.06.22 At a Telecommunications Site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- 7.11.06.23 All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
- 7.11.06.24 A holder of an Eligible Facilities Permit or Conditional Use Permit for a Wireless Communications Facility granted under this ordinance shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.
- 7.11.06.25 There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site.
- 7.11.06.26 An applicant shall submit to the City the number of completed applications determined to be needed at the pre-application meeting. Written notification of the application shall be provided to the legislative body of all adjacent municipalities as applicable and/or requested.
- 7.11.06.27 The holder of an Eligible Facilities Permit or Conditional Use Permit for Wireless Telecommunications Facilities shall notify the City of any intended modification of a Wireless Telecommunication Facility and shall apply to the City to modify, relocate or rebuild a Wireless Telecommunications Facility.
- 7.11.07 Permit application and other requirements for Eligible Facilities Requests that do not propose Substantial Changes.
- 7.11.07.01. Compliance with application requirements. All applicants for an Eligible Facilities Permit shall comply with the requirements set forth in this Section 7.11.07.

- 7.11.07.02. Eligible Facilities Permit required. No Wireless Telecommunications Facilities that requires an Eligible Facilities Permit shall be installed, constructed or modified until the Eligible Facilities Permit has been approved by the Community Development Director, and all applicable building permits have been obtained in accordance with Section 9.04.
- 7.11.07.03. Representations by applicant. Any and all representations made by the applicant to the City or its consultants or experts during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the City.
- 7.11.07.04. Application requirements for Eligible Facilities Permits. An Eligible Facilities Permit application shall include the following information:
1. Name and address, and phone number of the applicant to include the legal name of the applicant.
  2. The name, address, and phone number of the property owner. If the site is a tower and the tower owner is not the applicant, provide name and address of the tower owner.
  3. The address and legal description of the property.
  4. A signed statement demonstrating that the modification qualifies as an Eligible Facilities request that does not propose a Substantial Change.
  5. A lease or other satisfactory documentation demonstrating that applicant has the legally binding right to proceed as proposed on the site. If the applicant owns the site, a statement is not required.
  6. A lease or other satisfactory documentation demonstrating that construction of the proposed Wireless Telecommunications Facility shall be legally permissible upon the City's approval of the corresponding eligible facilities permit and upon the issuance of all applicable building permits to be obtained in accordance with Section 9.04. Such statement shall include, but not limited to, confirmation of the fact that the applicant is authorized to do business in the State.
  7. Satisfactory documentation demonstrating that the application complies with federal guidelines regarding interference and ANSI standards as adopted by the FCC including but not limited to NIER standards.
  8. Satisfactory documentation demonstrating that the proposed installation or work will not cause physical or RF interference with telecommunications or other facilities or devices.
  9. A site plan that complies with Section 5.15.05.02, which also includes:
    - a) The location, size and height of all existing and proposed structures on the property which is the subject of the application; and
    - b) The type, locations and dimensions of all proposed and existing landscaping, screening, and fencing.
  10. A description of the proposed antenna(s), and all related fixtures, structures, appurtenances, and apparatus, including height above pre-existing grade, materials, color, and lighting. This shall include:
    - a) The azimuth, size and center-line height location of all proposed and existing antenna(s) on the supporting structure; and
    - b) The number, type and model of the antenna(s) and equipment proposed with a copy of the specification sheet; and
    - c) The make, model, type and manufacturer of the tower; and
    - d) The frequency, modulation, and class of service of radio or other transmitting equipment; and

e) The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts.

11. A structural analysis report that includes calculations that the Wireless Telecommunication Facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all City, State and Federal structural requirements for loads, including wind and ice loads. Such structural analysis shall bear the signature and seal of a registered professional structural engineer licensed in the State.

7.11.07.05. Utility installation. All utilities at a Wireless Telecommunications Facilities site shall be installed underground whenever possible and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Code where appropriate.

7.11.07.06. Compliance with technical, safety, and safety-related codes. All Wireless Telecommunications Facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified, or restored in strict compliance with all current applicable technical, safety, and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent editions of the ANSI Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding codes, the more stringent shall apply.

7.11.07.07. Responsibility for permits and licenses. A holder of an Eligible Facilities Permit granted under this Article shall obtain, at its own expense, all permits and licenses required by applicable laws, rules, or regulations, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.

#### 7.11.08 Location of Wireless Telecommunications Facilities

7.11.08.01 Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, one (1) being the highest priority and six (6) being the lowest priority.

1. On existing towers or other structures on city owned properties, including the right-of-way.
2. On existing towers or other structures on other property in the City.
3. A new tower on City-owned properties.
4. A new tower on properties in areas zoned for Heavy Industrial use.
5. A new tower on properties in areas zoned for Light Industrial use.
6. A new tower on properties in areas zoned for Transitional Agricultural use.

7.11.08.02 If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

7.11.08.03 An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the City why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.

- 7.11.08.04 Notwithstanding the above, the City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.
- 7.11.08.05 The Applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.
- 7.11.08.06 Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an application for any of the following reasons.
1. Conflict with safety and safety-related codes and requirements;
  2. Conflict with the nature or character of a neighborhood or district;
  3. The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
  4. The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the City, or employees of the service provider or other service providers;
  5. Conflicts with the provisions of this ordinance.

7.11.09 Shared Use of Wireless Telecommunications Facilities and Other Structures

- 7.11.09.01 The City, as opposed to the construction of a new tower, shall prefer locating on existing towers or others structures without increasing the height. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within two (2) miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing tower or other suitable structure cannot be used.
- 7.11.09.02 An Applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.
- 7.11.09.03 Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.

7.11.10 Height of Telecommunications Tower(s)

- 7.11.10.01 The Applicant shall submit documentation justifying the total height of any tower, facility and/or antenna requested and the basis therefore. Documentation in the form of propagation studies must include all backup data used to perform at requested height and a minimum of ten (10') feet lower height to allow verification of this height need. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.
- 7.11.10.02 No tower constructed after the effective date of this section, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with City, State, and/or any Federal statute, law, local law, city ordinance, code, rule or regulation. The height limitations in this section shall supersede the height limitations set forth in Section 4.15.

7.11.11 Visibility of Wireless Telecommunications Facilities.



- 7.11.11.01 Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.
- 7.11.11.02 Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this ordinance.
- 7.11.11.03 If lighting is required, applicant shall provide a plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

7.11.12 Security of Wireless Telecommunications Facilities.

- 7.11.12.01 All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:
  1. All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
  2. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

7.11.13 Signage

- 7.11.13.01 Wireless telecommunications facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

7.11.14 Lot Size and Setbacks

- 7.11.14.01 All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed tower or wireless telecommunications Facility structure plus ten percent (10%) of the height of the tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

7.11.15 Retention of Expert Assistance and Reimbursement by Applicant

- 7.11.15.01 The City may hire any consultant and/or expert necessary to assist the City in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any site inspections.

7.11.16 Application Fee

At the time that a person submits an application for a Conditional Use Permit for a new tower, such person shall pay a non-refundable fee as established in the Master Fee Schedule.

7.11.17 Performance Security

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the City a bond, or other form of security acceptable to the City as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a tower facility and \$25,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the City to assure the faithful performance of the terms and conditions of this ordinance and conditions of any Eligible Facilities Permit or Conditional Use Permit issued pursuant to this ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Conditional Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Eligible Facilities Permit or Conditional Use Permit.

#### 7.11.18 Reservation of Authority to Inspect Wireless Telecommunications Facilities

In order to verify that the holder of a Conditional Use Permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

#### 7.11.19 Liability Insurance

7.11.19.01 A holder of an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Eligible Facilities Permit or Conditional Use Permit in amounts as set forth below

1. Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
2. Automobile Coverage: \$1,000,000 per each accident;
3. Workers Compensation and Disability: Statutory amounts

7.11.19.02 For a wireless telecommunications facility on City property, the Commercial General Liability insurance policy shall specifically include the City and its officers, Councils, employees, committee members, attorneys, agents and consultants as additional insureds.

7.11.19.03 The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.

7.11.19.04 The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least ten (10) days prior written notice in advance of the cancellation of the insurance for non-payment or 60 days for all other reasons.

7.11.19.05 Renewal or replacement policies or certificates shall be delivered to the City at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

7.11.19.06 Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than fifteen (15) days after the granting of the Eligible Facilities Permit or Conditional Use Permit, the holder of the Eligible Facilities Permit or Conditional Use Permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

#### 7.11.20 Indemnification

7.11.20.01 Any application for wireless telecommunication facilities that is proposed for City property, pursuant to this ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the City,

and its officers, Councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the City, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

7.11.20.02 Notwithstanding the requirements noted in Section 7.11.20.01, an indemnification provision will not be required in those instances where the City itself applies for and secures an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities.

#### 7.11.21 Default and/or Revocation.

If a Wireless Telecommunications Facility is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this ordinance or of the Eligible Facilities Permit or Conditional Use Permit, then the City shall notify the holder of the Eligible Facilities Permit or Conditional Use Permit in writing of such violation. A permit holder in violation may be considered in default and subject to fines as in Section 25 and if a violation is not corrected to the satisfaction of the City in a reasonable period of time the Eligible Facilities Permit or Conditional Use Permit is subject to revocation.

#### 7.11.22 Removal of Wireless Telecommunications Facilities.

7.11.22.01 Under the following circumstances, the City may determine that the health, safety, and welfare interests of the City warrant and require the removal of wireless telecommunications facilities.

1. Wireless Telecommunications Facilities or Small Wireless Facilities with a permit have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;
2. Permitted Wireless Telecommunications Facilities or Small Wireless Facilities fall into such a state of disrepair that it creates a health or safety hazard;
3. Wireless Telecommunications Facilities or Small Wireless Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Eligible Facilities Permit, Conditional Use Permit, or any other necessary authorization;
4. The Eligible Facilities Permit or Conditional Use Permit may be revoked by City Council as authorized within the conditions set forth within the approved Eligible Facilities Permit or Conditional Use Permit.

7.11.22.02 If the City makes such a determination as noted in Section 7.11.22.01, then the City shall notify the holder of the Eligible Facilities Permit or Conditional Use Permit for the facilities within forty-eight (48) hours that said facilities are to be removed, the City may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless facilities.

7.11.22.03 The holder of the Eligible Facilities Permit or Conditional Use Permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities or wireless facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or Commercial Impracticability, within ninety (90) days of receipt of written notice from

the City. However, if the owner of the property upon which the facilities are located wishes to retain any access roadway to the facilities, the owner may do so with the approval of the City.

- 7.11.22.04 If wireless telecommunications facilities or wireless facilities are not removed or substantial progress has not been made to remove the facilities within ninety (90) days after the permit holder has received notice, then the City may order officials or representatives of the City to remove the wireless telecommunications facilities or wireless facilities at the sole expense of the owner or Eligible Facilities Permit or Conditional Use Permit holder.
- 7.11.22.05 If, the City removes, or causes to be removed, wireless telecommunications facilities or wireless facilities, and the owner of the facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the City may take steps to declare the wireless telecommunications facilities or wireless facilities abandoned, and sell them and their components.
- 7.11.22.06 Notwithstanding anything in this Section to the contrary, the City may approve a temporary use permit/agreement for the wireless telecommunications facilities or wireless facilities, for no more ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected facilities shall be developed by the holder of the Eligible Facilities Permit or Conditional Use Permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of the Eligible Facilities Permit or Conditional Use Permit and the City. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the City may take possession of and dispose of the affected facilities in the manner provided in this Section.

#### 7.11.23 Relief

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this ordinance may request such, provided that the relief or exemption is contained in the submitted application for either an Eligible Facilities Permit or Conditional Use Permit, or in the case of an existing or previously granted Eligible Facilities Permit or Conditional Use Permit a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the City in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the City, its residents and other service providers.

#### 7.11.24 Periodic Regulatory Review by the City

- 7.11.24.01 The City may at any time conduct a review and examination of this entire ordinance.
- 7.11.24.02 If after such a periodic review and examination of this ordinance, the City determines that one or more provisions of this ordinance should be amended, repealed, revised, clarified, or deleted, then the City may take whatever measures are necessary in accordance with applicable law in order to accomplish the same. It is noted that where warranted, and in the best interests of the City, the City may repeal this entire ordinance at any time.
- 7.11.24.03 Notwithstanding the provisions of Sections 7.11.24.01 and 7.11.24.02, the City may at any time and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this ordinance.

#### 7.11.25 Adherence to State and/or Federal Rules and Regulations

- 7.11.25.01 To the extent that the holder of an Eligible Facilities Permit or Conditional Use Permit pursuant to this Section 7.11 has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such an

Eligible Facilities Permit or Conditional Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

- 7.11.25.02 To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of an Eligible Facilities Permit or Conditional Use Permit pursuant to this Section 7.11, then the holder of such an Eligible Facilities Permit or Conditional Use Permit shall conform the permitted facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity

## **Section 7.12 Fences**

No fence shall be constructed within the zoning jurisdiction of the City of La Vista unless a permit therefore is approved and issued by the Chief Building Official and is constructed in conformance with the following requirements:

- 7.12.01 The height limitation for fences shall be six feet (6') above ground level except as provided herein.
- 7.12.01.01 A fence constructed within a front yard of a residential lot and vegetation used as a barrier, screen, or fence along and parallel to the front line of a residential lot, shall not exceed forty-two (42) inches in height.
- 7.12.01.02 A fence constructed within the portion of a side yard of a residential lot that lies in front of a line extending perpendicularly from the side lot line to the front corner of the structure that is closest to such side lot line, shall not exceed four feet (4') in height, except that if the lot is located on a corner, as defined in Article 2 of this Ordinance, a fence constructed within a side yard along the side lot line which is adjacent to a street shall not exceed six feet (6') in height.
- 7.12.01.03 *The height limitation for fences in an Industrial District shall be eight feet (8') above ground level. Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than eight feet (8') in height may be approved through a Conditional Use Permit (Ordinance No. 1124, 07-20-10)*
- 7.12.01.04 Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet (8') in height.
- 7.12.01.05 Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet (8') in height.
- 7.12.02 Fences located within a front or side yard of a residential lot must qualify within the definition of an open fence, except that solid fences may be constructed along a side lot line parallel and adjacent to the lot line that is adjacent to a Commercial District or an Industrial District. A solid fence may be constructed in a side yard parallel and adjacent to the lot line that is adjacent to a street.
- 7.12.03 No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.
- 7.12.04 The use of barbed wire in the construction of any fence is prohibited except:
- 7.12.04.01 Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the City before commencement of construction.
- 7.12.04.02 Farm fencing constructed for agricultural purposes on parcels of land twenty (20) acres or more in the Transitional Agricultural District.
- 7.12.05 All supporting posts for fence construction shall be set in concrete except for agricultural fencing.

- 7.12.06 All fences shall be maintained in good repair.
- 7.12.07 All fences shall be located inside the boundaries of the property upon which constructed except where two (2) adjacent property owners pursuant to written agreement filed with the City agree to build one (1) fence on the common lot line of adjacent side yards or back yards.
- 7.12.08 Electric Fences. No electric fence shall be constructed or maintained within the City of La Vista or within its extraterritorial zoning jurisdiction except in TA-Transitional Agriculture District as hereinafter provided. An owner or lessee of such property may, upon application to the City and approval by the Chief Building Official, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Chief Building Official shall approve any electrified fencing, he shall determine that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.
- 7.12.09 Facing. The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two (2) or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.
- 7.12.10 Perimeter Fencing. *All fencing along an arterial or other perimeter road or street in a subdivision shall be consistent in style, type, material, height and color. Such fence shall be approved by the City based upon existing subdivision and adjacent subdivisions. If not prescribed within the subdivision agreement to be installed all at once, each fence shall require a fence permit and be consistent with the first fence on the perimeter, or in the case of an established subdivision, replacement fences shall be consistent with the dominant fence style, type, material, height, and color. Such requirements shall also pertain to street side yard fencing of lots on the corner of the subdivision entrance(s). (Ordinance No. 1007, 9-19-06)*
- 7.12.11 Any existing fence constructed pursuant to a permit issued and approved by the City of La Vista which was in conformity with the prior to the provisions of this Ordinance may remain without change in accordance with this section notwithstanding same may be in conflict with one (1) or more provisions of this section as amended; provided, however, and replacement or change of said existing fence or addition of a new fence, must hereby meet the requirements of this section as amended hereby.

### **Section 7.13 Storage or parking of vehicles, boats, campers and trailers**

No lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of La Vista shall be used for any of the following:

- 7.13.01 The storage or keeping of motor vehicles not having a property issued current motor vehicle registration and current motor vehicle license plate property displayed; provided, however, that the following shall not constitute a violation of this subparagraph.
- 7.13.01.01 The storage of unlicensed and/or unregistered motor vehicles in a fully enclosed garage.
- 7.13.01.02 The storage or keeping of operable off-highway farm or industrial vehicles on tracts zoned Transitional Agricultural Residence (TA) or any Industrial District and used in agricultural or industrial activity conducted on said premises.
- 7.13.01.03 The storage of not more than one (1) passenger type motor vehicle in good operable condition and shielded from view of the general public by a manufactured and fitted vehicle cover and located on a hard surfaced driveway pursuant to a permit to so store obtained from the City Clerk which permit shall be issued for a fee as established in the Master Fee Schedule to the applicant and shall:
1. Be issued for a period not to exceed six (6) months and shall be renewable upon application for like periods as long as such storage is in all respects in compliance herewith.
  2. Identify the vehicle by make, year of manufacture, model and manufacturer's identification number;
  3. State the reason the vehicle does not bear a current registration and license;
  4. Require owner to prove continued operability of the vehicle upon request of the Police Department; and
  5. Contain the property owner's and vehicle owner's consent for the City and its agents to enter upon the premises and vehicle for purpose of determining continued operability of the vehicle; and shall be revocable upon owner's failure to comply with any of the terms thereof.
- 7.13.02 The storage, keeping or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, except in enclosed buildings or garages or where otherwise authorized by the La Vista zoning regulations.
- 7.13.03 Parking, storage, or keeping, other than in a fully enclosed garage, of any non-operable motor vehicle on any lot zoned residential, provided, however, that automobiles that are non-operable solely by reasons of repair work being done thereon may be parked on residential lots within the La Vista zoning jurisdiction occupied by the owner of said automobile, under the following conditions:
- 7.13.03.01 The automobile is owned by the occupier of the premises and registered to him/her at that address.
- 7.13.03.02 The period of said repair work does not exceed ten (10) days in duration;
- 7.13.03.03 Said repair work is at all times conducted on a hard surface driveway; and
- 7.13.03.04 No more than one (1) automobile in need of repair is situated on the premises at the same time.
- Before the City removes a vehicle suspected of violation hereof by reason of it being inoperable the City shall give the owner of the premises upon which the offending vehicle is situated a seventy-two (72) hour warning notice which may be given by either tagging the motor vehicle or by sending notice by regular mail, postage prepaid, to the occupier of the premises upon which the motor vehicle is situated. Any motor vehicle not removed from the premises within such seventy-two (72) hour period shall be presumed to be inoperable and may thereafter be removed by the City. If he chooses, the owner may demonstrate operability of the vehicle by making special arrangements with the La Vista Police Department to demonstrate within said seventy-two (72) hour period. The operability of the vehicle and, if such operability is satisfactorily demonstrated, the automobile need not be removed.
- 7.13.04 No motor vehicle as defined by section 60-301 of Nebraska State Statues (or boat, camper or trailer in excess of 15 feet in length or 10 feet in height) shall be parked in the front, side or rear yard of any lot zoned

residential except on paved driveways or other hard surfaced areas as designed and provided for in Article 2; provided that;

Boats, campers, trailers or any combination thereof not exceeding two (2) may be parked in the side or rear yard of lots zoned residential from October through April of each year without being parked on a hard surface. A camper or boat situated on a trailer shall be considered as one (1) vehicle.

Said boats, campers and trailers together with accessory structures shall not occupy more than thirty-five percent (35%) of the required rear yard.

Notwithstanding the foregoing, it shall be permissible to park motor vehicles in the yards of residential lots on areas which are not paved as driveways or otherwise hard surfaced for a period not to exceed seventy-two (72) hours, when on-street parking is illegal by reason of Section 5-708 of this code and as allowed by special permit to accommodate temporary guests or visitors for no more than fourteen (14) days. Any motor vehicle, boat, camper or trailer parked, stored or kept in violation of the provisions hereof may be removed by the City. All towing, storage and other costs of removal pursuant to this section shall be solely at the expense of the owner of the premises from which the vehicle, boat, camper or trailer is situated, and if the owner is different than the occupier of the premises, then both owner and occupier shall be jointly and severally liable. In addition, the City, upon certifying the same to the county treasurer, shall have a lien against the premises in the full amount of such removal costs, together with interest at the highest legal rate that the City is authorized by law to collect on special assessments.

#### **Section 7.14 Keeping of Animals**

Animals may be kept within the zoning jurisdiction of the City of La Vista subject to the following restrictions:

- 7.14.01 No bees or livestock including but not limited to sheep, goats, cattle or swine shall be allowed within residential or commercial zoning districts.
- 7.14.02 No bird or fowl shall be allowed within residential or commercial zoning districts. Grandfather rights shall be granted upon application to the City so that this section will not apply to bird or fowl owned, kept or harbored prior to the original effect date of this section, subject to the following conditions:
- 7.14.02.01 No more than two (2) fowl of any one (1) species or a total of more than five (5) fowl shall be allowed on any one (1) residence or dwelling unit. All fowl shall be confined to the premises of the residence or dwelling unit of the person owning, keeping or harboring such fowl.
- 7.14.02.02 No fee will be charged for filing the permit application.
- 7.14.02.03 The permit application must be filed on or before October 1, 1981.
- 7.14.02.04 The rights granted under any such permit shall not be transferable to a replacement fowl.
- 7.14.03 Horses and other members of the horse family shall be allowed on any piece of property zoned Transitional Agricultural (TA) and containing at least one (1) acre of land. One (1) such animal is allowed on the first (1<sup>st</sup>) acre and an additional animal is allowed for each additional two (2) acres of land.
- 7.14.04 The keeping of dogs, cats, rabbits, pigeons and household pets shall be permitted accessory use in residential and commercial districts subject to the regulations for kennels as defined in Article 2 of this Ordinance and the provision found in Title 9, Chapter 95 of the La Vista Municipal Code. For the purposes of this section, a "household pet" is any animal or creature kept inside a residential dwelling not outside, and in no event shall include any of the following: any live monkey (non-human primate), raccoon, skunk, fox, poisonous or dangerous insect or reptile, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal which can normally be found in the wild state. The keeping of pigeons is subject to the following conditions.
- 7.14.04.01 Such birds shall be banded with some form of identification.
- 7.14.04.02 Such birds shall be confined in sanitary, secure structures subject to inspection and approval by the City of La Vista.
- 7.14.04.03 No more than ten (10) such birds shall be allowed on any one (1) piece of property.
- 7.14.04.04 Trained pigeons may be exercised under supervision of owner or trainer and be trained to recall on command.
- 7.14.04.05 A permit for the keeping of such birds shall be obtained from the City of La Vista.
- 7.14.05 The restrictions contained in this Section 7.14 shall not apply to any pet store or veterinary services.



## **Section 7.15 Solar Energy Conversion Systems**

Solar Energy Conversion Systems (SECS) are permitted in all zoning districts as an accessory use to any lawfully permitted principal use on the same lot upon issuance of the proper permit and upon compliance with all requirements of this section and as elsewhere specified in this Ordinance. Building-integrated solar energy systems, as defined in this Ordinance, are not considered an accessory use and are not subject to the requirements of this Section.

7.15.01 Height and Lot Requirements: Solar Energy Conversion Systems (SECS) shall conform to the required height and lot requirements provide herein:

- 7.15.01.01 Building-Mounted SECS that are attached to a building on a lot shall comply with the height, front, side, rear yard, and max. building coverage requirements of the building to which they are attached, except as otherwise allowed in Section 7.15.01.04.
- 7.15.01.02 For a Building-Mounted SECS installed on a sloped roof that faces the front yard of a lot, the system must be installed at the same angle as the roof on which it is installed with a maximum distance, measured perpendicular to the roof, of eighteen (18) inches between the roof and highest edge or surface of the system.
- 7.15.01.03 For a Building-Mounted SECS installed on a sloped roof, the highest point of the system shall not exceed the highest point of the roof to which it is attached.
- 7.15.01.04 For a Building-Mounted SECS installed on a flat roof, the highest point of the system shall be permitted to extend up to six (6) feet above the roof to which it is attached, and the system shall not extend horizontally past the roof line.
- 7.15.01.05 Ground-Mounted SECS may be located only in the required rear yard as Permitted Accessory Uses. Ground-Mounted SECS may be located outside of the rear yard, but behind the front building line, with an approved Conditional Use Permit.
- 7.15.01.06 Ground-Mounted SECS shall conform to the height and lot requirements for Accessory Buildings in the zoning district in which the system is to be constructed, except that the system may not exceed 12-feet in height.
- 7.15.01.06 Ground-Mounted SECS shall only be permitted in the following districts, subject to the requirements in this Ordinance: TA, R-1, R-2, R-3, R-4, I-1, I-2, and R-M.

7.15.02 Structural Requirements: The physical structure and connections to existing structures shall conform to the applicable City of La Vista Building Codes.

7.15.03 Permit Requirements: Before any construction or installation on any SECS system shall commence, a permit issued by the Building Department of the City of La Vista shall be obtained to document compliance with this Ordinance.

- 7.15.03.01 A permit fee shall be required, and the amount shall be established in the Master Fee Schedule.
- 7.15.03.02 The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.

7.15.04 Inspection, Safety, Abandonment, and Removal: The Chief Building Official and Fire Marshall reserve the right to inspect a SECS for building or fire code compliance and safety. If upon inspection the Chief Building Official or Fire Marshall determine that a fire code or building code violation exists, that the system has been abandoned, or that the system otherwise poses a safety hazard to persons or property, the Chief Building Official or Fire Marshall may order the owner to repair or remove the system within a reasonable time. Such an order shall be in writing, shall

offer the option to repair, shall specify the code violation or safety hazard found and shall notify the owner of his or her right to appeal such determination. If the owner fails to repair or remove a SECS as ordered, and any appeal rights have been exhausted, an employee or independent contractor with the City of La Vista may enter the property, remove the system and charge the owner for all costs and expenses of removal, including reasonable attorney's fees or pursue other legal action to have the system removed at the owner's expense. In addition to any other available remedies, any unpaid costs resulting from the City of La Vista's removal of a vacated abandoned or de-commissioned SECS shall constitute a lien upon the property against which the costs were charged. Legal counsel of the City of La Vista shall institute appropriate action for the recovery of such cost, plus attorney's fees. A SECS shall be deemed abandoned or defective by the City of La Vista if it is out of use for a period of 12 months or more, at which time the property owner shall have six months to return the system back to service, or complete decommissioning of the SECS. Decommissioning includes the removal of the SECS, all associated equipment, footings and foundation system, and wiring. Upon removal, such property shall be returned to the same conditions that existed before the installation of the system.

**7.15.05 Preexisting SECS:** Section 7.15 of this Ordinance applies to Solar Energy Conversion Systems (SECS) installed and constructed after December 17, 2019. Any upgrade, modification or structural change that materially alters the size or placement of an existing SECS system shall comply with the provisions of this Ordinance.

**7.15.06 Signage and/or Graphic Content:** No signage or graphic content may be displayed on the solar PV system except the manufacturer's badge, safety information and equipment specification information. Said information shall be depicted within an area no more than thirty-six (36) square inches in size.

**7.15.07 Screening and Visibility:** Placement of SECS shall be prioritized in such a way that will minimize or negate any solar glare onto nearby properties and roadways. SECS are subject to the following:

- 7.15.07.01 All SECS using a reflector to enhance solar production must minimize glare from the reflector that affects adjacent or nearby properties. Measures to minimize nuisance glare include selective placement of the system, screening on the north and south sides of the SECS, modifying the orientation of the system, reducing use of the solar reflector system, or other remedies that limit glare.
- 7.15.07.02 All SECS appurtenances, including, but not limited to, plumbing, water tanks and support equipment, shall be of a color that is complementary to the site location, and shall be screened to the extent reasonably feasible without compromising the effectiveness of the solar collectors. SECS shall comply with any applicable Design Guidelines of the appropriate district.
- 7.15.07.03 Building-mounted systems mounted on a flat roof shall require screening as to not be visible from elevation-perspective view. This can be accomplished with architectural screening such as a building parapet or by setting the system back from the roof edge in such a manner that the solar PV system is not visible from the public right-of-way.

## **Section 7.16 Performance Standards for Industrial Uses**

The following standards shall be met unless there are greater standards required by the United States Environmental Protection Agency or the Nebraska Department of Environmental Quality.

**7.16.01 Physical Appearance:** All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be *displayed or stored in the open, if the applicable zoning district permits*. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the *outdoor* storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition. *However, allowable outdoor storage or display shall be visually screened from public roadways and residential properties. (Ordinance No. 1053, 01-15-08)*

- 7.16.02 **Fire hazard:** No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the City of La Vista.
- 7.16.03 **Noise:** No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume *or in excess of eighty (80) decibels, whichever is greater.* (**Ordinance No. 858, 3-5-02**). Noise shall be measured at the property line, *with a suitable instrument.* (**Ordinance No. 1053, 01-15-08**)
- 7.16.04 **Sewage and Liquid Wastes:** No operation shall be carried on which involves the discharge *of waste* into a *stormsewer*, surface water, or the ground, *nor shall hazardous waste*, detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations, *be dumped into wastewater sewerage.* (**Ordinance No. 1053, 01-15-08**)
- 7.16.05 **Air Contaminants:**
- 7.16.05.01 Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one (1) four (4) minute period in each one-half (1/2) hour. Light colored contaminants of such an capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted
- 7.16.05.02 Particulate mater of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit, except for a period of four (4) minutes in any one-half (1/2) hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit.
- 7.16.05.03 Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
- 7.16.05.04 **Odor:** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Regulations.
- 7.16.05.05 **Gasses:** The gasses sulphur dioxide and hydrogen sulphide shall not exceed five (5) parts per million, carbon monoxide shall not exceed five (5) parts per million. All measurements shall be taken at the zoning lot line.
- 7.16.05.06 **Vibration:** All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousands (0.003) of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.
- 7.16.05.07 **Glare and heat:** All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.

## **Section 7.17 Landscaping Requirements**

### **7.17.01 Intent:**

The intent of the landscaping requirements are to improve the appearance of lot areas and soften paved areas and buildings; to provide a buffer between differing land uses; to minimize the adverse effect of uses from one another; to minimize the effect of heat, noise and glare; to conserve the value of property and neighborhoods within the community; and to enhance the physical environment within the City of La Vista by ensuring that yards, open spaces, parking lots and those areas abutting public rights-of-way are designed, installed and maintained in accordance with the provisions of this section.

Property development shall consider and respect land capabilities and constraints, minimize erosion and destruction of natural amenities and provide a buffer between differing land uses.

### **7.17.02 Application and Scope:**

The provisions of the section shall apply to all new construction and development including, but not limited to, structures, dwellings, buildings, parking lots, residential subdivisions, office parks, shopping centers, and redevelopment for which either a building or zoning permit approval is required, except the following:

- 7.17.02.01 Agricultural buildings, structures and uses.
- 7.17.02.02 Replacement of lawfully existing structures or uses.
- 7.17.02.03 Additions, remodeling or enlargements of existing uses or structures provided that the enlargement of surface parking is more than 4,000 square feet shall not be accepted. Where such enlargement is less than 4,000 square feet, the provisions of this section shall apply only to that portion of the lot or site where the enlargement occurs.
- 7.17.02.04 Where there is more than one lot or site being developed together as one unit with common property lines, the entire site shall be treated as one lot or site for the purpose of conforming to the requirements of this section.
  - 1. When a lot or site with more than one ownership has been partially developed at the time of the adoption of this section. The application of the requirements of this section shall be determined by the City.

### **7.17.03 Landscaping Requirements:**

Landscaping shall be required and provided as follows:

- 7.17.03.01 Single-family and two-family dwellings shall provide and maintain a minimum of thirty percent (30%) of lot area as a permeable and uncovered surface that contains living material. Single-family and two-family dwellings shall be exempt from all other requirements of this section. The MU-CC District shall be exempt from all requirements of this section.

#### **7.17.03.02 Street Frontage:**

A landscaped area having a minimum depth of fifteen feet (15') from the property line shall be provided along the street frontage of all lots or sites including both street frontage of corner lots.

- 1. The required landscaped are fifteen feet (15') may be reduced to ten feet (10') if an equal amount of square feet of landscaped area, exclusive of required side and rear yard landscaped areas, is provided elsewhere on the site.
- 2. Exclusive of driveways and sidewalks not more than twenty five percent (25%) of the surface of the landscaped area shall have inorganic materials such as brick, stone, concrete, asphalt, aggregate, metal or artificial turf.
- 3. A minimum of one (1) tree shall be planted for every forty lineal feet (40') or fraction thereof.

#### **7.17.03.03 Side Yard:**

A landscaped area having a minimum depth of ten feet (10') from the property line shall be provided along the side yard abutting any Residential District.

- 1. Exclusive of driveways and sidewalks, not more than ten percent (10%) of the surface of the landscaped area shall be inorganic materials such as brick, stone,

concrete, asphalt, aggregate, metal or artificial turf. If the slope of ground within the landscape area exceeds 2:1, not more than fifty percent (50%) of the surface shall be inorganic material.

2. Landscaping shall include a hedge screen or a random or informal screen of plant materials substantially blocking the views and attaining a minimum height of six feet (6') within four (4) years. A landscaped earth berm not exceeding six feet (6') in height may be used in combination with the plant materials.
3. A six foot (6') solid wood and/or masonry fence or wall, may be used in lieu of or in combination with the plant materials required in section 7.17.03.03 (1), provided that such fence is at least five feet (5') from the property line.

**7.17.03.04**

**Rear Yard:**

A landscaped area having a minimum depth of ten feet (10') from the property line shall be provided along the rear yard abutting any Residential District or Transitional Agriculture District.

1. The landscape requirements for the rear yard shall be the same as for the side yard described in section 7.17.03.03.

**7.17.03.05**

**Off-Site Parking Lots:**

Parking lots not located on the property where the use served is located, shall conform to this section provided that a parking lot with an area of four thousand (4,000) square feet or less shall be exempt from the requirements of this section.

**7.17.03.06**

**Parking Area Interior Landscaping:**

Off-street parking lots, as defined in 7.17.03.05, and other vehicular use areas shall have at least ten (10) square feet of interior landscaping for each parking space excluding those spaces abutting a perimeter for which landscaping is required by other sections of this Ordinance, and excluding all parking spaces which are directly served by an aisle abutting and running parallel to such perimeter.

The front of a vehicle may encroach upon any interior landscaped area when said area is at least four (4) feet in depth per abutting parking space and protected by curbing. Two (2) feet of said landscaped area may be part of the required depth of each abutting parking space. No more than two (2) drive aisles shall be placed parallel to one another without an intervening planter aisle of at least four (4) feet in width; eight (8) feet is required if parking spaces overlap the curbs of the aisle.

**7.17.03.07**

**Perimeter Landscaping:**

All commercial office and industrial developments, buildings, or additions thereto shall provide perimeter landscaping to include a minimum of one (1) tree for each forty (40) lineal feet of street frontage or fraction thereof. Such landscaped area shall consist of sufficient area for the species of tree to be planted. Other perimeter landscaping shall require approval of the City.

**7.17.03.08**

**Plant Materials:**

Landscape living plant materials shall consist of trees, shrubs, ground covers, vines, grasses, flowers, and any other plants.

1. The plant nomenclature shall conform with the recommendations and requirements of the "American Standard for Nursery Stock", as amended, published by the American Association of Nurserymen, Inc.
2. Size. The minimum size of plant materials to be installed shall be as follows:
  - A. Deciduous trees shall have a minimum caliper of one and one-half inches (1-1/2").
  - B. Evergreen (conifer) trees shall have a minimum height of five feet (5').
  - C. Deciduous shrubs shall have a minimum size of three (3) gallons or a height of eighteen inches (18").
  - D. Evergreen shrubs shall have a minimum size of three (3) gallons or a spread of eighteen inches (18").

- E. Ornamental grasses shall have a minimum size of one gallon (1 gal).

**7.17.03.09 Planting Schedule:**

The plant materials shall be installed prior to the issuance of the certificate of occupancy. If, because of seasonal reasons, the landscaping cannot be installed, a surety satisfactory to the City of La Vista equal to the contract cost shall be submitted to the City. The City shall release the surety when the plant materials have been installed. If the plant materials have not been installed within twelve (12) months of the effective date of the certificate of occupancy, the City may install the required landscaping.

**7.17.03.10 Required Plans:**

Upon application of a building permit, a landscape-planting plan shall be submitted to the City of La Vista for review and approval.

1. Three copies of the plan shall be submitted.
2. The plan shall include, but not be limited to, the following:
  - A. Property lines and other physical features necessary to show the proposed installation of plants.
  - B. The location and spacing of plant materials.
  - C. The scientific name, common name, plant size, quantity and planting method.
  - D. The plan shall have a scale of not more than one-inch (1”) equals one hundred feet (100’).
  - E. When necessary, existing and proposed contours shall be provided.

**7.17.04 Screening Requirements**

7.17.04.01 All parking areas or vehicular use areas abutting a residential district or public right-of-way shall be screened from grade level to a height not less than three (3) feet.

7.17.04.02 All commercial and industrial uses that abut residential or office districts shall provide screening not less than six (6) feet in height along the abutting property line(s).

7.17.04.03 Screening required by this section shall be equivalent to the following:

1. Solid fences or walls as approved by the City on the final development plan.
2. Hedges, shrubs, or evergreen trees of thirty-six (36) inches in height at planting spaced appropriately to provide a solid screen within three (3) years after planting.
3. Berms of not less than three (3) feet in height and that provide a maximum slope of 3:1 for easy maintenance. Such berms may be used in conjunction with plantings to achieve the solid visual screen as described in 7.17.04.03 (1) above.
4. All projects except one-and-two family dwellings shall include a detailed drawing on the landscape plan indicating the method of enclosure and screening to be used on trash dumpsters. All dumpsters or trash bins shall maintain a solid six (6) foot enclosure around each unit. Said enclosure shall be of complementary materials.
5. All plant material used for screening shall meet the standards in section 7.17.03.08.

7.17.04.04 The MU-CC District shall be exempt from all requirements of this section.

**7.17.05 Installation and Maintenance of Landscaping and Screening:**

**7.17.05.01 Installation:**

All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures. Landscaped areas shall require protection from vehicular encroachment. The Chief Building Official shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided. Temporary occupancy permits may be issued due to weather related conditions upon approval by the Chief Building Official.

**7.17.05.02 Maintenance:**

The owner, developer, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a healthy condition by necessary and appropriate measures. When replacement is necessary all plants and other non-living landscape materials shall be equal

in size, density and appearance, at maturity, to those items requiring replacement when feasible . Underground sprinkler systems are encouraged to serve all landscaped areas except individual one and two family dwellings unless an equivalent watering system is approved by the Chief Building Official.

All required screening and fencing shall be maintained and, whenever necessary, replaced with materials that provide equivalent size, density, and appearance. All landscaping and screening shall be kept free from refuse and debris so as to present a healthy, neat and orderly appearance. Turf grass shall be maintained on all areas not covered by other landscaping, parking, drives, buildings, or similar structures. Existing yards shall be maintained with grass or other approved ground cover.

**7.17.06 Preliminary Plan Approval**

A landscape plan indicating both proposed and existing landscaping and screening shall be submitted, with the preliminary plat, PUD, or preliminary site plan for development, for review and recommendation by City Staff. Said Plan shall be in sufficient detail to provide the City with a reasonable understanding of what is being proposed. Site calculations used in computing quantities shall also be submitted which are proposed to be used to satisfy the required amounts of landscaping.

**7.17.07 Final Plan Approval**

A detail listing of all plant materials to be used, quantities, size, and spacing shall be submitted to the City on separate sheets for review and recommendation and approval by the City Staff along with a planting schedule at final development plan submission.

**7.17.08 Parking Lot Plan Approval**

A final site development plan shall be submitted to the Chief Building Official with the necessary landscaping and screening required herein for each of the following types of parking lot improvements:

7.17.08.01 New construction.

7.17.08.02 Expansion of existing facilities.

7.17.08.03 Maintenance of existing facilities where an overlay is proposed at which time the landscaping and screening shall be required. Modifications to the required parking lot landscaping and screening may be granted by the Planning Commission after review of submitted plans and in consideration of surrounding uses.

7.17.08.04 No parking lot shall be exempted from these regulations; unless previously exempted.

**Section 7.18 Wind Energy Systems**

In any zoning district, a conditional use permit may be granted to allow wind energy conversion system, including such devices as wind charger, windmill, or wind turbine; subject to the following condition:

- 7.18.01 The distance from any tower support base to any tower support base of another wind energy device under other ownership shall be a minimum of five (5) rotor distances figured by the size of the largest rotor.
- 7.18.02 The wind energy system operation shall not cause interference to the radio and television reception on adjoining property.
- 7.18.03 To limit climbing access to the tower, a fence six (6) feet high with a locking portal shall be placed around the tower base or the tower climbing apparatus shall be limited to no more than twelve (12) feet from the ground, or the tower may be mounted on a roof top.
- 7.18.04 The setback distances from all lot lines to any tower support base shall be determined according to the following setback table:

7.18.05 SETBACK TABLE

<u>Rotor Diameter</u>	<u>Setback Distance</u>	<u>Minimum Lot Area<sup>1</sup></u>
5 feet	100 feet	1 Acre
10 feet	165 feet	2.5 Acres
15 feet	220 feet	4.5 Acres
20 feet	270 feet	6.75 Acres
25 feet	310 feet	9.0 Acres
30 feet	340 feet	10.75 Acres
35 feet or larger	365 feet	12.25 Acres

<sup>1</sup>. Where there are several towers under single ownership the minimum lot areas may be adjusted down provided the minimum setback distances are met on all perimeter units. In addition, the landing areas for all internal towers and rotors shall be within the property owned by the operator.

- 7.18.06 Data pertaining to the machine’s turbine safety and stability shall be filed with the application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program.<sup>1</sup>
- 7.18.07 The application shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.

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<sup>1</sup> U.S. Department of Energy – EPRI Wind Turbine Verification Program  
Electric Power Research Institute – 3412 Hillview Avenue, Palo Alto, California 94304