

**CITY OF HARTINGTON  
CEDAR COUNTY, NEBRASKA  
ZONING ORDINANCE**

**ORDINANCE NUMBER**

**#804**

**ADOPTED BY THE CITY OF HARTINGTON, NEBRASKA**

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**ARTICLE 1: TITLE, PURPOSE, AND LEGAL STATUS**

**Section 1.01 Title**

This Ordinance shall be known and may be referred to as the Zoning Ordinance of the City of Hartington, Nebraska.

**Section 1.02 Purpose**

This Ordinance has been prepared in accordance with a Comprehensive Plan and to promote the health, safety, and general welfare of the community; to lessen congestion in streets; to secure safety from fire and other dangers; to provide adequate light and air; to promote the distribution of population, land classifications and land development to support provisions for adequate transportation, water flows, water supply, drainage, sanitation, recreation, and other public requirements; to protect property against blight and depreciation; and to secure economy in governmental expenditures.

**Section 1.03 Jurisdiction**

The provisions of this Ordinance shall apply within the corporate limits of the City of Hartington, and within the territory beyond corporate limits as now or hereafter fixed, for a distance of approximately one mile, as established on the Official Zoning Map and referred to as Hartington's Extraterritorial Zoning Jurisdiction.

**Section 1.04 Minimum Requirements**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance are in conflict with the provisions of any other ordinance or municipal law, the ordinance or municipal law with the most restrictive provisions shall govern.

**Section 1.05 Zoning Affects Every Building and Use**

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

**Section 1.06 Relationship to Comprehensive Plan**

This zoning ordinance is designed to implement various elements of the comprehensive plan as required by state statutes. Any amendment to the district ordinances or map shall conform to the comprehensive plan adopted by the governing body.

**Section 1.07 Separability**

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

**Section 1.08 Purpose of Catch Heads**

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

**Section 1.09 Repeal of Conflicting Ordinances**

All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

**Section 1.10 Effective Date**

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

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**ARTICLE 2: DEFINITIONS**

**Section 2.01 Rules**

For the purpose of this Ordinance the following rules shall apply:

1. Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.
2. The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, Council, commission, trustee, receiver, agent or other representative.
3. The word "shall" is mandatory.
4. The word "may" is permissive.
5. The words "use", "used", "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed" to be used or occupied.
6. The word "Commission" shall refer to the City of Hartington Planning Commission.
7. The phrase "Zoning Administrator" shall refer to the designated Zoning Administrator for the City of Hartington.
8. Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.
9. The word "Council" shall mean the Hartington City Council.

**Section 2.02 Abbreviations and Acronyms**

For the purpose of this ordinance, the following abbreviations and acronyms shall have the meaning indicated.

1. AU = Animal Unit
2. CAFO = Confined Animal Feeding Operation
3. FCC = Federal Communication Commission
4. FT = Foot or Feet
5. GIS = Geographic Information System
6. kV = Kilovolt
7. kW = Kilowatt
8. LFO = Livestock Feeding Operation
9. NDA = Nebraska Department of Aeronautics or successor department
10. NDEQ = Nebraska Department of Environmental Quality or successor department
11. NSFM = Nebraska State Fire Marshall or successor department
12. NHHS = Nebraska Department of Health and Human Services or successor department
13. NDOR = Nebraska Department of Roads or successor department
14. ROW = Right-of-Way or Rights-of-Way
15. SF = Square Feet
16. SY = Square Yard
17. USDA = United States Department of Agriculture
18. YD = Yard

Section 2.03 Definitions

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

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

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

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

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

**ACREAGE** shall mean any tract or parcel of land which does not qualify as a farm or development.

**ADJACENT** shall mean near, close, or abutting, including property separated by a street or highway.

**ADULT ENTERTAINMENT ESTABLISHMENT** shall mean any business which offers its patrons services, products, or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas."

**ADVERTISING STRUCTURE** shall mean any notice or advertisement, pictorial or otherwise, and all such structures used as an outdoor display, regardless of size and shape, for the purposes of making anything known.

**ALLEY** shall mean a minor public service street or public thoroughfare 25 feet or less in width, through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street.

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

**ANIMAL UNIT** shall mean a method of comparing the impact of various species of farm animals based upon weight and waste production. One animal unit (au) equals:

1 Cow/Calf combination	2 Sows with Litters;
1 Slaughter, Feeder Cattle;	10 Sheep;
1 Horse;	100 Chickens;
0.7 Mature Dairy Cattle;	50 Turkeys;
2.5 Swine (55 pounds or more);	5 Ducks.
25 Weaned Pigs (less than 55 pounds);	

**ANTENNA** shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of telecommunication signals.

**ANTIQUÉ SHOPS** shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, of belonging to the past, at least 30 years old.

**APARTMENT** shall mean a room or a suite of rooms within a multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping units. Also see "Dwelling Units."

**ARTISAN PRODUCTION SHOP** shall mean a building or portion thereof used for the creation of original handmade works of art or craft items.

**BAR or TAVERN** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises, which may also provide entertainment or dancing.

**BASEMENT** shall mean the portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is more than the vertical distance from grade to ceiling.

**BED and BREAKFAST INN** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided for compensation, and the owner or operator lives on premises.

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

**BEST INTERESTS OF COMMUNITY** shall mean interests of the community at large and not the interest of the immediate neighborhood or a small group of citizens.

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

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

**BREW PUB** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use, which produces no more than 10,000 barrels of beer or ale annually. The area used for brewing, including bottling and kegging, shall not exceed 25 percent of the total floor area of the commercial space.

**BROADCASTING TOWER** shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceed the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding 100 feet in height shall not be considered broadcast towers.

**BUFFER** shall mean an area of land established to separate or protect two incompatible zoning districts or land uses from one another that acts to soften or mitigate the effects of one on the other.

**BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind. Operable and licensed trailers, with wheels, storage trailers and Pods shall not be considered as buildings.

**BUILDING AREA** shall mean the total square footage of the ground areas occupied by all buildings and structures on a lot.

**BUILDING HEIGHT** shall mean the vertical distance measured from the finished grade (or average grade) to the highest point of a roof surface if a flat or shed roof, to the deck line of mansard roofs, and to the average height between the eave and ridge for gable, hip, and gambrel roofs.

**BUILDING SETBACK LINE** shall mean the minimum distance required between any property line and the closest point or outside point of any building or wall of a building or structure.

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

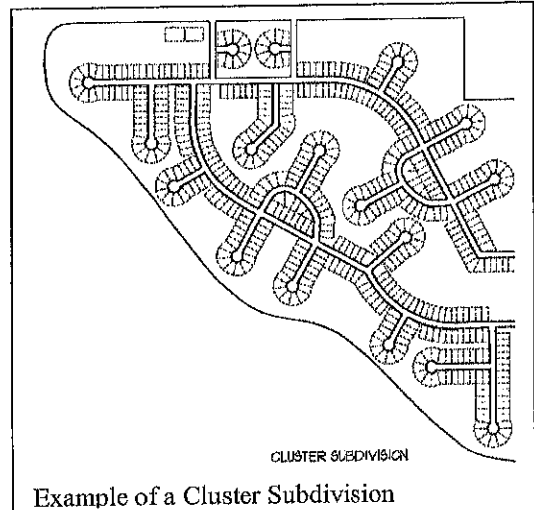
**CHILD CARE** shall mean the provision of care to between four and twelve children under age 13, for on the average of less than 12 hours per day, for compensation, either indirect or direct, on a regular basis, and by a person other than their parents/guardians.

**CHILD CARE CENTER** shall mean a facility licensed to provide child care for 13 or more children. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

**CLINIC, MEDICAL OR DENTAL** is an organization of specializing physicians and/or dentists who have their offices in a common building, but not including the provision of inpatient care.

**CLUB** shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.

**CLUSTER DEVELOPMENT** shall mean a development designed to concentrate buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive areas.



**CODE** shall mean the Municipal Code of the City of Hartington.

**COLLEGE or UNIVERSITY** shall mean facilities which conduct regular academic instruction at collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions shall confer degrees as a college or university for undergraduate or graduate standing, conduct research, or give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, commercial, or private trade schools are not included in this definition.

**COMMON AREA OR PROPERTY** shall mean a parcel or parcels of land, together with any improvements thereon, the use and enjoyment of which are shared by the owners or tenants of the buildings or building sites thereon.

**COMPREHENSIVE PLAN** shall mean the adopted Comprehensive Development Plan of Hartington, Nebraska.

**CONDITIONAL USE** shall mean a use that would not be appropriate generally throughout the zoning district without restrictions, but which would not be detrimental to the public health, safety, and general welfare if allowed upon compliance with specific conditions.

**CONDITIONAL USE PERMIT** shall mean a permit recommended by the Planning Commission and issued by the City Council that authorizes the use of property for an identified use in accordance with the provisions of this Ordinance and any additional conditions required by the permit.

**CONDOMINIUM** shall be as defined in the Nebraska State Statutes Section 76-824 - 76-894, the Condominium Law, whereby four or more apartments are separately offered for sale.

**CONFINED ANIMAL FEEDING OPERATION (CAFO)** shall mean facilities for the feeding, farrowing, or raising of cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the number of animals maintained exceeds 300 animal units. The confined area shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities, constructed and operated in conformance with applicable county, state, and federal regulations. Two or more CAFO's under common ownership are deemed to be a single CAFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes.

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



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

**CUL-DE-SAC** shall mean a short public way that has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

**DENSITY** shall mean the number of dwelling units per acre of land allowable on a given tract or parcel of land.

**DEPARTMENT STORE** shall mean a business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed, enclosed and exhibited and sold directly to the customer for whom the goods and services are furnished.

**DETENTION BASIN** shall mean a facility for the temporary storage of storm water runoff.

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

**DEVELOPMENT** shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.

**DISABILITY or HANDICAP** shall mean:

1. A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently;
2. A record of having such an impairment; or
3. Being regarded as having such impairment.

Handicap shall not include current, illegal use of or addiction to a controlled substance.

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

**DRAINAGEWAY** shall mean any depression of land serving to give direction to a current of water less than nine months of the year, having a bed and banks; provided, that in the event of doubt as to whether a depression is a watercourse or drainage way, it shall be presumed to be a watercourse.

**DUPLEX** shall mean the same as "Dwelling, Two-Family".

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

**DWELLING, ATTACHED** see "Dwelling, Single-Family Attached."

**DWELLING, DETACHED** shall mean a dwelling which is entirely surrounded by open space on the same lot.

**DWELLING, MANUFACTURED HOME** shall mean a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.

**DWELLING, MOBILE HOME** shall mean any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or roller, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure, built after 1980, which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

**DWELLING, MODULAR HOME** shall mean any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections. A modular home shall meet the construction criteria defined by the Nebraska State Department of Health and Human Services; those that do not meet the criteria shall be considered a mobile home. A modular home shall be considered a conventional type single-family dwelling.

**DWELLING, MULTIPLE-FAMILY** shall mean a building or buildings designed and used for occupancy by three or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.

**DWELLING, SINGLE FAMILY** shall mean a building having accommodations for or occupied exclusively by one family, which meets all the following standards and does not meet the definition of mobile home or manufactured home.

1. The home shall have no less than 900 square feet of floor area, above grade, for single story construction;
2. The home shall have no less than an 18 foot exterior width;
3. The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run;
4. The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction;
5. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, colored metal, or rock;
6. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
7. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
8. Permanent foundation: continuous perimeter base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.

**DWELLING, SINGLE-FAMILY ATTACHED** shall mean a one-family dwelling unit that is attached to one additional single-family dwelling, separated by an un-pierced common wall through the center of the structure that also sits along the property line separating ownership of the structure.

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

**DWELLING UNIT** shall mean one room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease, physically separate from any other rooms or dwelling units which may be in the same structure, and containing exclusive cooking, toilet and sleeping facilities.

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

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

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

**FAMILY** shall mean a household head and one or more persons related to the head by blood, marriage or adoption living together in a single dwelling unit.

**FAMILY CHILD CARE HOME I** shall conform to the following:

1. Located in the provider's place of residence
2. Can care for up to eight children of mixed ages plus 2 additional school age children during non-school hours
3. Provide care for four babies if providing infant care ONLY

**FAMILY CHILD CARE HOME II** shall conform to the following:

1. Located in the provider's place of residence
2. Can care for up to eight children of mixed ages plus 2 additional school age children during non-school hours
3. Provide care for four babies if providing infant care ONLY
4. Can care for up to 12 children with 2 providers

**FARM** shall mean the use of land, containing at least 10 acres, for profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other similar agricultural or horticultural use, but shall not include the feeding of garbage or offal to swine or other animals.

**FARM ANIMALS or LIVESTOCK** shall mean animals associated with agricultural operations, commonly kept or raised as a part of an agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens and turkeys.

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

**FARMER'S MARKET** shall mean the offering for sale of fresh agricultural products directly to the consumer at an open air market designated by the City Council as a community activity.

**FARMSTEAD** shall mean a tract of land of not less than one acre and not more than 20 acres, upon which a farm dwelling and other farm building existed at the time of the adoption of this resolution and was used for single-family resident purposes.

**FEED LOT** shall mean the confinement of horses, sheep, pigs, and other food animals in buildings, lots, pens, pools or ponds which normally are not used for raising crops or for grazing animals.

**FENCE** shall mean a structure serving as an enclosure, barrier or boundary.

1. **FENCE, OPEN** shall mean a fence, including gates, which has, for each one foot wide segment extending over the entire length and height of fence, 50 percent or more of the surface area in open spaces which affords direct views through the fence.
2. **FENCE, SOLID** shall mean any fence that does not qualify as an open fence.

**FIREWORKS STAND** shall mean any portable building and/or structure used for the retail sale of fireworks, usually on a temporary basis.

**FLOOR AREA** shall mean the total square footage within the exterior walls of a building or structure.

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

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

**FRONTAGE** shall mean that portion of a lot, parcel, or block which abuts a dedicated public street or highway, but not abutting an alley.

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

**GROUP CARE HOME** shall mean a dwelling for four or more disabled persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential.

**HARD SURFACE** shall mean paved with either asphalt or concrete.

**HOME OCCUPATION** shall mean an "in-home" or "home based" or entrepreneurial business operated within a residential dwelling.

**HOTEL or MOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities.

**IMPERVIOUS SURFACE** shall mean a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as rock, gravel, or clay and conventionally surfaced streets, roots, sidewalks, parking lots, and driveways.

**INFILL DEVELOPMENT** shall mean the construction of a building or structure on a vacant parcel located in a predominately built up area.

**INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which does not have a current state license plate, is disassembled or wrecked in part or in whole, is unable to move under its own power, or is not equipped as required by law for operation upon public street.

**KENNEL, COMMERCIAL** shall mean an establishment where four or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four months of age, are raised, bred, boarded, trained, groomed or sold as a business.

**LANDFILL** shall mean a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.

**LIFE CARE FACILITY** shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals and culminating in full health and continuing care nursing home facility.

**LOADING SPACE** shall mean a space or berth typically on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.

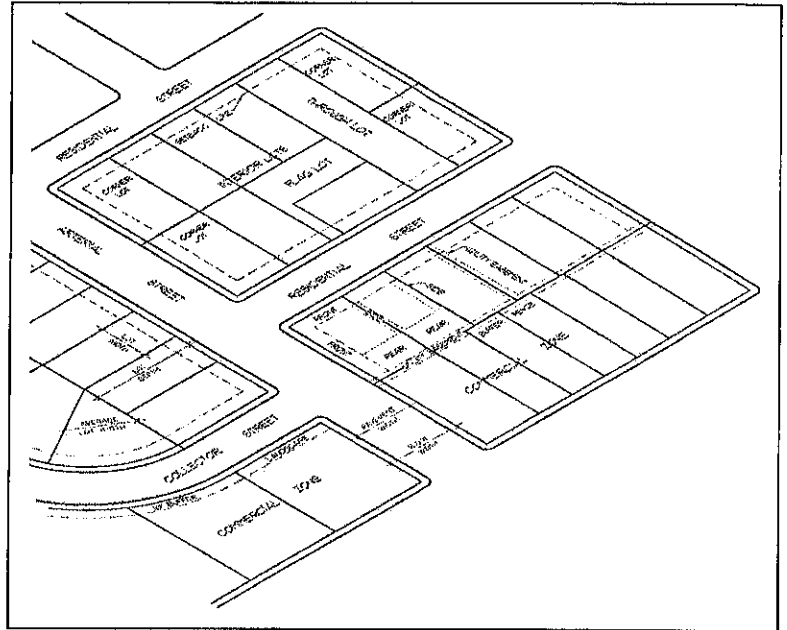
**LONG-TERM CARE FACILITY** shall mean a facility that provides the following services, as such are defined by state law:

1. Nursing facilities
2. Boarding home
3. Adult Care Home
4. Assisted Living Facility
5. Center for the Developmentally Disabled
6. Group Residence
7. Swing Bed
8. Adult Day Care

**LOT** shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the ordinance, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Register of Deeds and abutting at least one public street or right-of-way, or one private road.

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

**LOT, CORNER** shall mean a lot located at the intersection of two or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an "Interior Lot."



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

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

**LOT, FLAG** shall mean a lot with frontage and access provided to the bulk of the lot by means of a narrow corridor.

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

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

1. **LOT LINE, FRONT** shall mean the property line abutting a street.
2. **LOT LINE, REAR** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.
3. **LOT LINE, SIDE** shall mean any lot line not a front lot line or rear lot line.

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

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

**LOT WIDTH** shall mean the average horizontal distance between side lot lines.

**LOT, ZONING** shall mean a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on the approved private street, and may consist of:

1. A single lot of record;
2. A portion of a lot of record;
3. A combination of complete lots of record and portions of lots of record, or of portions of record;
4. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Code.

**MANUFACTURED HOME SUBDIVISION** shall mean a subdivision used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.

**MINI-STORAGE OR MINI-WAREHOUSE** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.

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

**MOBILE HOME PARK** shall mean a parcel of land that has been planned and improved for the placement of mobile home or trailer housing, placed in bays or spaces that are not offered for sale or sold. The term "mobile home park" does not include sales lots on which new or used mobile homes or manufactured homes are parked for the purposes of storage, inspection, or sale.

**NON-CONFORMING** shall mean a building or use, or portion thereof, which was lawful when established but which does not conform to subsequently established zoning regulations.

**NURSERY** shall mean the use of a premise for the propagation, cultivation, growth, and sale of trees, shrubs, plants, vines, and the like from seed or stock.

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

**OFFICIAL ZONING MAP** shall mean the map delineating the boundaries of zoning districts, officially adopted by the City Council.

**OUTLOT** shall mean an unbuildable lot remnant or parcel of land reserved for open space or future development.

**OVERLAY DISTRICT** shall mean a district in which additional requirements act in conjunction with the underlying zoning district. The original zoning district designation does not change.

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

**PLANNED UNIT DEVELOPMENT** shall mean a development designed to provide a unique and creative arrangement of residential, business, or industrial uses in accordance with an approved development plan.

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

**PRINCIPAL BUILDING** shall mean a building within which the main or principal use of the lot or premises is located. Also, see "Principal Use."

**PROTECTED ZONE** shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping or buffer strips.

**PUBLIC FACILITY** shall mean any building, location, or structure, owned by a public entity such as a library, fire station, school, park, and other similar facilities and uses.

**PUBLIC USE** shall mean a specified activity or area that either through actual public ownership or through dedication of easements allows the general public access and use.

**PUBLIC UTILITY** shall mean any business which furnishes the general public telephone service, telegraph service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.

**RECREATION FACILITY** shall mean a facility including uses such as game courts and fields, exercise equipment, locker rooms, and other similar facilities.

**RECREATIONAL FACILITY** shall mean a facility used for passive and active recreation, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events, and shall include museums, amphitheaters, race tracks (including all motor powered vehicles), wildlife conservation areas (used for public viewing), and theme parks.

**RESTAURANT** shall mean a public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.

**RESTAURANT, DRIVE-THRU** shall mean an establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.

**RETAIL BIG BOX** shall mean a singular retail or wholesale user who occupies no less than 75,000 square feet of gross floor area, typically providing high parking to building area ratios and a regional sales market.

**RETAIL USE** shall mean a use primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods.

**RETENTION BASIN** shall mean a pond, pool, or basin used for the permanent storage of storm water runoff.

**REVERSE SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.

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

**SALVAGE YARD** shall mean businesses engaged in the storage, collection, purchase, sale, salvage, or disposal of machinery, parts and equipment that are a result of dismantling or wrecking, including scrap metals or other scrap materials, with no burning permitted.

**SCHOOL, PRIMARY** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, and secondary levels equivalent to the standards established by the State Board of Education.

**SCHOOL, PRIVATE** shall mean facilities which conduct regular academic instruction for a profit, such as commercial schools, private trade schools, and business schools.

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

**SEASONAL USE** shall mean those land uses and structures that are operated during specific seasons of the year, i.e. Christmas tree sales and haunted house.

**SELECTIVE CLEARING** shall be the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures.

**SEPARATE OWNERSHIP** shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.

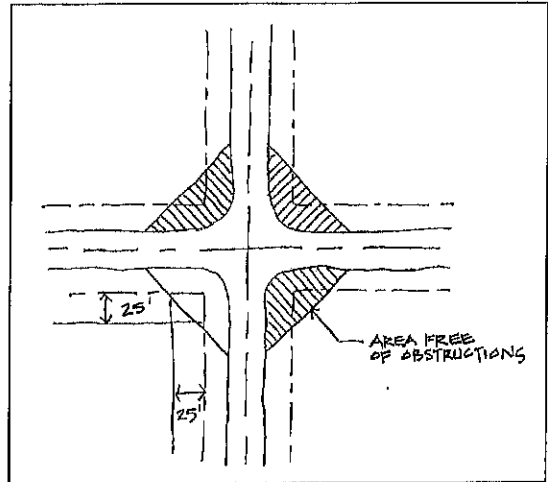
**SERVICE STATION** shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but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

**SETBACK, FRONT YARD** shall mean the line which defines the depth of the required front yard, measured parallel with the right-of-way line.

**SETBACK, REAR YARD** shall mean the line which defines the depth of the required rear yard, measured parallel with the rear property line.

**SETBACK, SIDE YARD** shall mean the line which defines the depth of the required side yard, measured parallel with the side property line, between the front and rear setbacks.

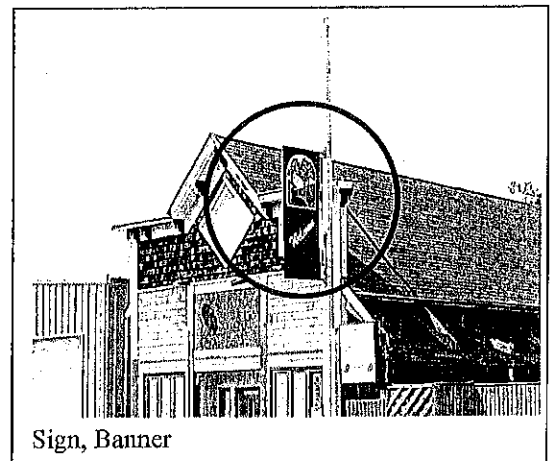
**SIGHT TRIANGLE** shall mean an area at a street intersection, in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet and 10 feet above the grades of the bottom of the curb of the intersecting streets. The sight triangle shall be measured 25 feet from the point of intersection of the front property lines.



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

**SIGN AREA** of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminate.

**SIGN, AWNING OR CANOPY** shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.



Sign, Banner

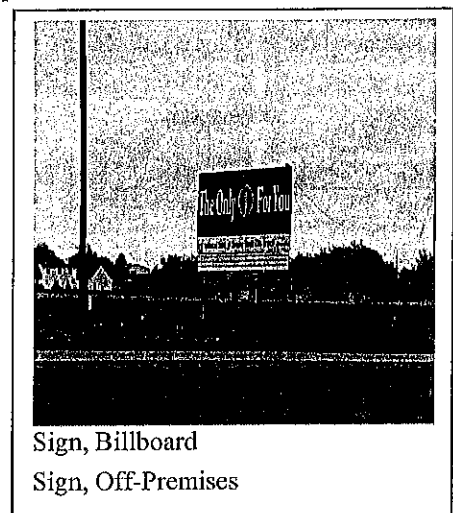
**SIGN, BANNER** shall mean any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or official flag of any institution or business shall not be considered banners. Banner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

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

**SIGN, ELECTRONIC MESSAGE BOARD** shall mean a sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

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

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



Sign, Billboard

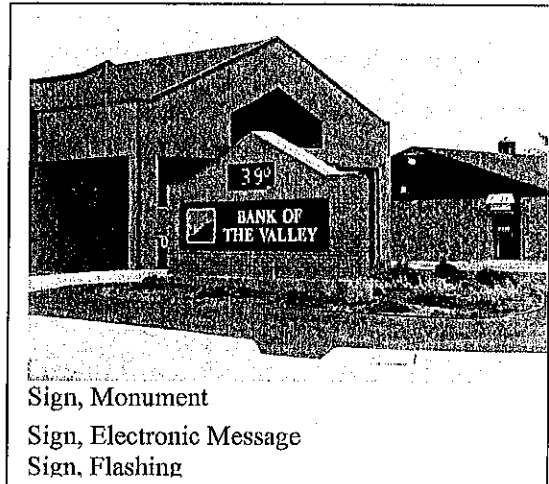
Sign, Off-Premises



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

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

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



Sign, Monument  
Sign, Electronic Message  
Sign, Flashing

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

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

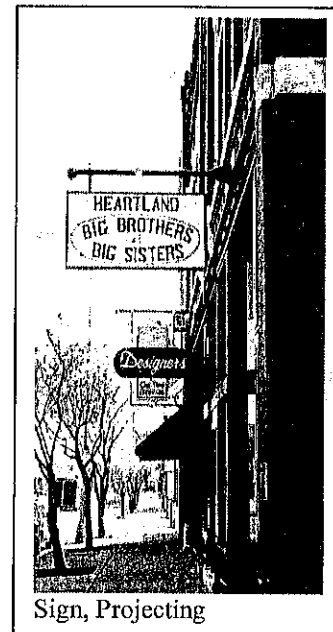
**SIGN, NON-CONFORMING** shall mean any sign that does not conform to the requirements of this ordinance.

**SIGN, OBSOLETE** shall mean a sign that advertises a business no longer in existence or a product no longer offered for sale and has advertised such business or product for a period of six months after the termination of the existence of such business or the termination of sale of the product advertised.

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

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

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



Sign, Projecting

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

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



Subdivision Sign

**SIGN, ROOF** shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on and over the roof of a building and extending vertically above the highest portion of the roof.

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

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

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

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

**SPECIFIED ANATOMICAL AREAS** shall mean:

1. Less than completely and opaquely covered human genitals; pubic region; anus; or female breast below a point immediately above the top of the areola, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed.
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device covering that, when worn, simulates male genitals in a discernibly turgid state.

**SPECIFIED SEXUAL ACTIVITIES** shall mean:

1. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
2. Sex acts normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
3. Masturbation, actual or simulated.
4. Human genitals in a state of sexual stimulations, arousal, or tumescence.
5. Excretory functions as part of or in connection with any of the activities set forth in (1), (2), (3) or (4) above.

**SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an upzoning to a more intensive use classification.

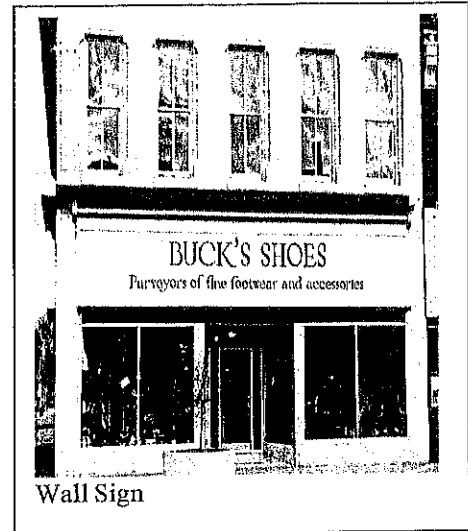
**STORMWATER DETENTION** shall mean any storm drainage technique that retards or detains runoff for a brief period and controls runoff flows through slowly releasing runoff over time.

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

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

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

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



**STREET, EXPRESSWAY** shall mean a street or road that provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.

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

**STREET, PRIVATE** shall mean a street or alley owned and maintained by a private party, with an access easement dedicated to the public.

**STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, but not including outdoor areas such as paved patios, walkways, and similar recreation areas.

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

**SUBDIVISION** shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or other instrument.

**TEMPORARY USE** shall mean a use intended for limited duration to be located in a zoning district not permitting such use.

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

**TOWNHOUSE** shall mean a series of one-family dwelling units arranged in a group of three or more units attached laterally, and having a fully exposed front and rear wall, located on individual lots.

**TRUCK REPAIR** shall mean the repair, including major mechanical and body work, straightening of body parts, painting, welding, or other work that may include noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations, of trucks having a hauling capacity of over one ton and buses but excluding pickups and other vehicles designed for the transport of under eight passengers.

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

**USE** shall mean the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

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

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

**USE, PROHIBITED** shall mean any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.

**VARIANCE** shall mean a relief from or variation of the provisions of this Ordinance by the Board of Adjustment, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.

**WETLAND** shall mean an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions.

**WHOLESALE TRADE** shall mean a use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

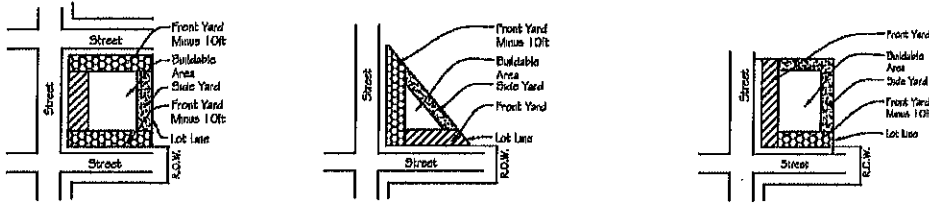
**YARD** shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation.

1. **YARD, FRONT** shall mean a space between the front yard setback line and the front lot line or street setback line, and extending the full width of the lot. The front yard shall always be on the narrow side of the lot.
2. **YARD, REAR** shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.
3. **YARD, SIDE** shall mean a space extending from the front yard or from the front lot line where no front yard is required by this Ordinance, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

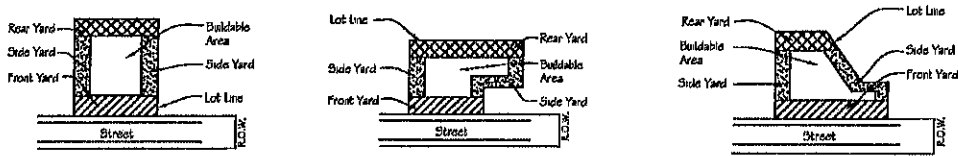
**ZONING DISTRICT** shall mean a defined area of land within which this Ordinance regulates the use of the land, the height and location of buildings, the size of yards, the intensity of use, and similar matters in a uniform manner.

**ZONING PERMIT** is a written statement issued by the zoning administrator authorizing buildings, structures, or uses in accordance with the provisions of this Ordinance.

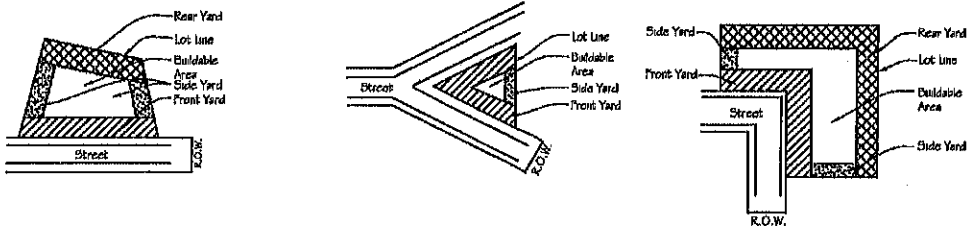
Corner Lot Scenarios



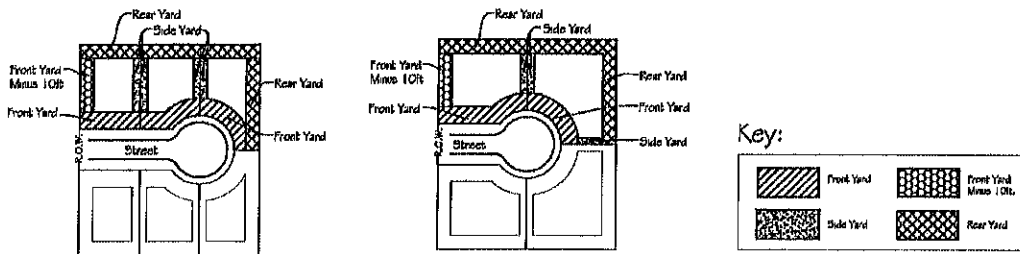
Interior Lot Scenarios



Odd-Shaped Lot Scenarios



Cul-de-sac Lot Scenarios



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**ARTICLE 3: GENERAL PROVISIONS**

**Section 3.01 Planning Commission Recommendations**

The Planning Commission shall hold public hearings upon, and make recommendation to the legislative body regarding proposed amendments to the Comprehensive Plan and this Ordinance, rezoning, and review of plats, etc. The Commission shall make a preliminary report and hold public hearings thereon before submitting its recommendation to the City Council, which shall not hold its public hearings or take action until it has received the recommendation of the Commission.

**Section 3.02 Lot**

1. Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one principal building on a lot unless otherwise provided.
2. No building or use of land for other than agricultural purposes shall be established on a lot that does not abut a public street.
3. No more than one principal building of a single permitted use or conditional use may be located upon a lot or tract, except one used for institutional, public, multiple-family, commercial, industrial, and farm buildings, provided that appropriate setbacks, height, and lot regulations are met on such lot or tract or upon division of such lot or tract.

**Section 3.03 Reductions in Lot Area Prohibited**

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

**Section 3.04 Obstructions to Vision at Street Intersections Prohibited**

Within a corner lot, except in the C-2 Business District, in the area formed by the front property lines and a line at a distance of 25 feet from their intersection, there shall be no obstruction to vision between a height of two and one-half feet and a height of 10 feet above the grades of the bottom of the curb of the intersecting streets. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.

**Section 3.05 Yard Requirements**

1. Yard requirements shall be set forth under the Schedule of Lot, Yard, and Maximum Lot Coverage Requirements for each zoning district. Required front, side and rear yards shall be unobstructed from the ground level to the sky, except as herein permitted.
2. All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
3. On corner lots, the yard(s) abutting a street shall be considered a front yard for the district in which the lot is located, with approval of the planning commission one of the setbacks may be reduced by 10 feet.
4. The Zoning Administrator may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that:
  - a. More than 30 percent, of the frontage of principal structures, on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and
  - b. A minority of such structures have observed or conformed to an average setback line.
5. The required side yard shall be maintained on each side of a dwelling, but may be reduced to 10 percent of the lot width on lots of less than 60 feet in width, provided, however, no side yard shall be less than five feet.
6. Any side or rear yard in an industrial or commercial district which is adjacent to any existing residential use or district shall contain a combination of landscaping and fencing suitable to provide effective screening. Said screening shall be at least six feet but not more than eight feet high. The owner or owners of the property in the Commercial and/or Industrial District shall maintain said screening in good condition.
7. No part of a yard or other open space required in connection with any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space requirements for another building or structure.

**Section 3.06 Through Lots**

1. Where all principal structures in the development face the same frontage, said frontage shall meet the front yard requirements of the zoning district, while the other frontage shall meet the setback for rear yards within the zoning district, provided the setback for fences and screening shall be zero feet and all accessory buildings shall meet the prescribed setback within the zoning district.
2. Where principal structures face different directions along both frontages, the setback for fences and screening shall be the same as prescribed within the zoning district. Accessory buildings shall comply with the minimum required setbacks, rather than the reduced setback allowed for accessory buildings.
3. Where a through lot is part of a triple frontage lot, one frontage shall meet the rear yard requirements of the zoning district, while the other two frontages shall meet the front yard requirements of the zoning district.

**Section 3.07 Projections from Buildings**

1. Cornices, eaves, canopies, belt courses, sills, ornamental features, and other similar architectural features may project not more than two feet into any required yard or into any required open space, provided that such required yard or open space meets the required yard standards.
2. Bay windows may project up to three feet into any required yard.
3. As a part of single and two family residences, open uncovered porches or decks no higher than 18 inches above the adjacent grade may project no more than 10 feet into a required rear yard.

**Section 3.08 Drainage**

No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise cause a land disturbance that will alter the existing drainage situation shall provide to the City evidence, prepared by a licensed engineer if necessary, that such changes will not be a detriment to the neighboring lands.

**Section 3.09 Permitted Obstructions in Required Yards**

The following shall not be considered to be obstructions when located in the required yards:

1. All Yards:
  - a. Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which will not exceed minimum requirements of the Americans with Disabilities Act and are necessary for access to a permitted building or for access to a lot from a street or alley;
  - b. Recreational equipment (swing sets, slides, sand volleyball courts and nets, basketball poles, etc);
  - c. Clothes lines;
  - d. Approved freestanding signs;
  - e. Arbors and trellises;
  - f. Flag poles;
  - g. The projection of window unit air conditioners, not more than 24 inches into the required yard; and
  - h. Fences or walls subject to applicable height restrictions are permitted in all yards.
2. Rear and Side Yards: Open off-street parking spaces or outside elements of central air conditioning systems.
3. Building Groupings: For the purpose of the side yard regulation a group of buildings separated by a common party wall shall be considered as one building occupying one lot.

**Section 3.10 Accessory Building and Uses**

1. No accessory building or structure shall be constructed except in A-1 upon a lot for more than six months prior to beginning construction of the principal building. No accessory building shall be used for more than six months unless the principal building on the lot is also being used or unless the principal building is under construction and under an active zoning permit. However, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
2. Except in A-1, no detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.
3. No accessory building or structure shall be erected in or encroach upon a required side yard, or upon the required front yard on a corner lot or double frontage lot.

4. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than 10 feet.
5. Accessory buildings and structures may be built within a required rear yard when located at least five feet from the rear lot line and when occupying not more than 30 percent of the area of such rear yard. Where vehicular access to an accessory building or structure is provided from an alley, such building or structure shall be no closer than 15 feet to the alley. Where the accessory building or structure is larger than 120 sq ft such building or structure shall be placed on a permanent foundation and be located no closer than 10 feet to the rear lot line.
6. Detached garages and other accessory buildings located in Residential Districts shall:
  - a. Be constructed of materials that are in good repair,
  - b. Shall be subordinate to the principle structure in size and use except in A-1,
  - c. Have sidewalls that do not exceed 10 feet in height,
  - d. Garages shall have an overhang of at least six inches,
  - e. Garages shall have a maximum width of 36 feet,
  - f. Garages shall be constructed and finished in materials customary to residential construction.

**Section 3.11 Temporary Uses**

1. The following temporary uses may be permitted in all districts provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.
  - a. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work
  - b. Temporary structure for festivals or commercial events
  - c. Temporary Signs as provided in Sections 7.04
2. The following temporary uses may be permitted in commercial, residential, and industrial districts provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.
  - a. Firework stands provided the criteria are met as established by the City

**Section 3.12 Permitted Modifications of Height Regulations**

1. The height limitations of this Ordinance shall not apply to the following structures, provided yard setbacks are increased by one foot for every two feet in elevation such structure exceeds the maximum height requirement for the underlying zoning district:
  - a. Church and ornamental towers, steeples and spires
  - b. Public monuments and flag poles
  - c. Chimneys, smoke stacks, fire towers, cooling towers, water towers, and standpipes
  - d. Silos
  - e. Grain storage
  - f. Elevator bulkheads and necessary mechanical devices
  - g. Air-pollution prevention devices
  - h. Recreational equipment
  - i. Private radio and television antennae under 75 feet
2. When permitted in a district, public or semi-public service buildings, hospitals, institutions, churches, or schools may be erected to a height not exceeding 75 feet, provided, each required yard line shall be increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

**Section 3.13 Occupancy of Basements and Cellars**

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been completed.

**Section 3.14 Non-Conforming, General Intent**

It is the intent of this Ordinance to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared to be incompatible with permitted uses in the underlying districts. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized herein.



**Section 3.15 Nonconforming Lots of Record**

A single-family dwelling and customary accessory buildings may be erected on any single lot of record that existed on the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided, that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; that such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously since that time.

**Section 3.16 Nonconforming Structures**

1. Authority to continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
2. Enlargement, Repair, Alterations: Nonconforming structures may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that structures located on a lot that does not comply with the applicable lot size requirements shall provide the required side yard setback.
3. Damage or Destruction: In the event any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 50 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations of the underlying zoning district, provided structures located on a lot that does not comply with the applicable lot size requirements shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 50 percent of its structural value, no repairs or restoration shall be made unless a zoning permit is obtained and restoration is actually begun within six months after the date of such partial destruction and is diligently pursued to completion.
4. Moving: No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

**Section 3.17 Nonconforming Uses**

1. Nonconforming Uses of Land: A nonconforming use of land may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - a. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land.
  - b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel.
  - c. If any such nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent use of such land shall conform to the regulations specified by this Ordinance.
2. Nonconforming Uses of Structures: A nonconforming use of a building or structure may be continued so long as it remains otherwise lawful subject to the following provisions:
  - a. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located.
  - b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance but no such use shall be extended to occupy any land outside such building.
  - c. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use, provided such new nonconforming use is of a more restrictive or less intense nature.
  - d. Any structure and/or land in or on which a nonconforming use is superseded by a permitted use shall not thereafter be used for a nonconforming use, and shall conform to the regulations of the underlying zoning district.
  - e. When a nonconforming use of a structure and/or land is discontinued or abandoned for 12 months, the structure and/or land shall not thereafter be used except in conformance with the regulations of the underlying zoning district.
  - f. Removal or destruction of the structure shall terminate the nonconforming status of the use.

**Section 3.18 Repairs and Maintenance**

1. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of six consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, provided the cubic area of the building shall not be increased.
2. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

**Section 3.19 Uses under Conditional Use Permit not Nonconforming Uses**

Any use for which a Conditional Use Permit is issued as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

**Section 3.20 Recreational Vehicles, Trailers, or Equipment**

All vehicles, trailers, or equipment expressly designated or used for recreational or seasonal use shall not be used for dwelling purposes on any lot except as may be authorized elsewhere within this Ordinance. Such vehicles, trailers, or similar equipment shall not be parked or maintained in the required front yard.

**Section 3.21 Fees**

The payment of any and all fees for any zoning or subdivision related action or permit request shall be required prior to the issuance or investigation of any said action or permit request. Such fees shall be adopted by the City Council by separate Ordinance.

**Section 3.22 Prohibited Uses**

All uses not specifically listed within a particular zoning district are deemed to be prohibited until some point where this Ordinance is amended to include a given use.

**ARTICLE 4: ZONING DISTRICTS**

**Section 4.01 Districts, Creation and Regulation**

In order to regulate and restrict the height, location, size and type of buildings, structures and uses allowed on land in the City and the area within one mile of the corporate boundaries, the City is hereby divided into the following districts and regulations. No such district regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the City at least one time 10 days prior to such hearing. For the purpose of this Chapter, the City is hereby divided into six districts, designated as follows:

- |   |                                 |
|---|---------------------------------|
| A-1 Agricultural District               | C-1 Highway Commercial District |
| R-1 Low Density Residential District    | C-2 Business District           |
| R-2 Medium Density Residential District | I-1 Light Industrial District   |
| R-3 High Density Residential District   | I-2 Heavy Industrial District   |

**Section 4.02 Provision for Official Zoning Map**

1. The City is hereby divided into districts as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 4.02 of Ordinance No. \_\_\_\_\_ of the City of Hartington, Nebraska", together with the date of the adoption of this Ordinance. If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council.
2. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted \_\_\_\_\_, 20\_\_ (Ordinance No. \_\_\_\_\_) by the City of Hartington, Nebraska." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

**Section 4.03 Rules for Interpretation of District Boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, these rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys, platted lot lines, railroad lines, lines defining natural features, or the corporate limits of Hartington shall be construed as following such lines;
2. Boundaries indicated as parallel to or extensions of features indicated above shall be so construed;
3. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
4. Where physical or cultural features existing on the ground do not accurately reflect those shown on the Official Zoning Map, or are not covered within this section, the Board of Adjustment shall interpret the district boundaries;
5. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Board of Adjustment may permit the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

**Section 4.04 District Classification upon Annexation**

Areas annexed into the corporate limits of Hartington, as well as any new area brought into the one mile extraterritorial jurisdiction, shall be zoned to conform to the Hartington Future Land Use Plan. Such rezoning, when necessary, shall be required to follow proper procedures.



**ORDINANCE NO. 893**

AN ORDINANCE OF THE CITY OF HARTINGTON, NEBRASKA, TO AMEND SECTION 4.05 A-1 AGRICULTUREAL DISTRICT; SECTION 4.06 R-1 LOW DENSITY RESIDENTIAL DISTRICT; SECTION 4.07 R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT; SECTION 4.08 R-3 HIGH DENSITY RESIDENTIAL DISTRICT; SECTION 4.09 C-1 HIGHWAY COMMERCIAL DISTRICT; SECTION 4.10 C-2 BUSINESS DISTRICT; SECTION 4.11 I-1 LIGHT INDUSTRIAL DISTRICT; AND SECTION 4.12 I-2 HEAVY INDUSTRIAL DISTRICT TO INCLUDE FAMILY HOME I, FAMILY HOME II, AND CHILD CARE CENTERS AS PERMITTED OR CONDITIONAL USES TO EACH SECTION; REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES THAT CONFLICT HEREWITH; AND PROVIDING A TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

WHEREAS, Hartington Economic Development has identified a shortage of daycare availability in the City of Hartington, and therefore, recommends that the zoning ordinances be amended to allow each zoning district to allow Family Home Daycare I, Family Home Daycare II, and Child Care Centers to be added to each of the zoning districts as a permitted or conditional use;

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HARTINGTON, NEBRASKA TO AMEND THE ZONING ORDINANCE AS FOLLOWS:

**Section 4.05 A-1 Agricultural District**

- 4.05.01 Intent: The Agricultural District is established for the purpose of preserving agricultural resources that are compatible with adjacent urban growth. It is not intended for commercial feedlot operations for livestock or poultry. Because the areas are not in the identified growth areas for the community, the district is designed to limit urban sprawl.
- 4.05.02 Permitted Uses: The following principal uses are permitted in the A-1 District.
1. Farming, pasturing, commercial production and husbandry of livestock, poultry, fish and small animals, truck gardening and roadside stands offering agricultural goods produced on the premises, and orchards, including the sale of products raised on the premises, provided that no livestock feedlot or yard shall exceed a maximum of 25 animal units calculated at a density of one acre for the first A.U. and one-half acre for each additional A.U.
  2. Single-family dwellings
  3. Roadside stands offering for sale agricultural products produced on the premises
  4. Seasonal dwellings
  5. Public uses and facilities, including but not limited to utilities, public offices and buildings, parks and recreational uses
  6. Churches, temples, seminaries, and convents including residences for teachers and pastors
  7. Family Child Care Home I, Family Child Care Home II, and Child Care Centers
- 4.05.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the TA District as recommended by the Planning Commission and approved by the City Council.
1. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), fishing lakes, gun clubs and swimming pools
  2. Commercial greenhouses
  3. Airstrips
  4. Stables and riding clubs, provided:
    - a. No structure or building used to house horses or other animals is located closer than 300 feet to any residential use or district.
    - b. Minimum lot area of four acres.

5. Kennels and facilities for the raising, breeding and boarding of dogs and other small animals, provided:
  - a. No structure or building is located closer than 300 feet to any residential use or district not on owner's property, and at least 100 feet from any property line.
  - b. Minimum lot area of four acres.
6. Agricultural storage facilities for equipment and grain
7. Educational institutions, including public and private primary schools, secondary schools including universities, colleges, vocational schools, and business schools
8. Hospitals, clinics, institutions, including educational, religious and philanthropic institutions, and convalescent homes, provide the following and/or other conditions and standards are met:
  - a. Building shall not occupy more than 40% of the total lot area,
  - b. Building setbacks from all yards shall not be less than one foot per foot of building height.
9. Nursing home
10. Radio, television and wireless communication towers and transmitters, pursuant to Section 8.02
11. Cemeteries provided all structures are located at least 100 feet from all property lines
12. Water supply and storage facilities, wastewater treatment, sewage disposal, and solid waste disposal facilities
13. Veterinarians' offices and hospitals, provided that no structure or building used to house horses or other animals is located closer than 300 feet to any residential use or district
14. Livestock feeding operations, and the raising and care of animals for 4-H, FFA or other rural/school organizations provided no such facility shall have more than 300 animal units provided the producer can meet a density of one acre for the first A.U. and one-half acre for each additional A.U
15. Commercial and small wind energy systems on tracts of more than 10 acres, pursuant to Sections 8.03 and 8.04
16. Bed and breakfast
17. Seasonal use, including Christmas tree sales and Halloween activity parks
18. Retail motor vehicle sales and service
19. Mobile homes and second single-family dwelling units on a farm or ranch provided they are used for relatives or farm workers associated with the farm operation

4.05.04 Temporary Uses: The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.

1. Temporary greenhouse
2. Fireworks stand
3. Farmers market

4.05.05 Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses
2. Home occupation, pursuant to Section 8.01

4.05.06 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

Use	Lot Area (acres)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Coverage (%)
Permitted Uses	1	200	35(2)	8	35	35	10
Conditional Uses	1 (1)	200	35(2)	8	35	35	10
Accessory Buildings/Structures	-	-	35(2)	8	35	35	20

1. The minimum lot area is one acre; however, depending upon the size of the facilities and required setbacks the minimum lot area may be required to be greater.
2. If along county road or highway measure from street/road right-of-way.

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4.05.07 Other Applicable Provisions: The following uses shall be located a minimum of 2,640 feet from any adjacent residential, commercial, or public uses, as measured from the nearest point on the lot line; not including the operator's property.

1. Commercial auction yards or barns
2. Commercial production and husbandry of poultry, fish, and small animals
3. Commercial feedlots

4. Feed mills

4.05.08 No new residential, commercial, or public uses shall be located nearer than 2,640 feet to any existing use listed in 4.05.07.

**Section 4.06 R-1 Low Density Residential District**

4.06.01 Intent: The Low Density Residential District is intended to permit single-family and two family residential developments in areas with adequate public facilities and supporting uses.

4.06.02 Permitted Uses: The following principal uses are permitted in the R-1 District.

1. Single family dwellings
2. Two-family dwellings
3. Churches, temples, seminaries and convents, including residences for teachers and pastors
4. Public and private schools, colleges, and universities
5. Public uses and facilities, including but not limited to utilities, public offices and buildings, parks and recreational uses
6. Family Child Care Home I, Family Child Care Home II

4.06.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-1 District as recommended by the Planning Commission and approved by the City Council.

1. Hospitals, funeral homes, clinics and institutions, including educational, religious and philanthropic institutions and convalescent homes
2. Bed and breakfast
3. Taxidermy, pursuant to Home Occupation Section 8.01
4. Private stable and facilities for housing animals and fowl for non-commercial purposes provided the buildings shall be a distance of 300 feet from any lot line and have a minimum of four acres
5. Commercial recreational areas and facilities including swimming pools, fishing lakes and similar uses
6. Non-conforming residential structure. The City may allow a permit to expand an existing non-conforming single-family dwelling or accessory structure. In addition to the regular requirements of a conditional use permit, the following requirements must be met:
  - a. Permit cannot authorize a new type of non-conformity of use or structure or increase the degree of non-conformity
  - b. A structure must be located on a lot of less than 5,000 square feet
7. Child Care Centers

4.06.04 Temporary Uses: The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.

1. Farmer's market
2. Fireworks Stand
3. Temporary Greenhouse

4.06.05 Accessory Uses

1. Buildings and uses customarily incidental to the principal uses
2. Home occupation, pursuant to Section 8.01

4.06.06 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

Use	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Single-family detached residential	7,500	75	35	8 (4)	35	35	40%
Single Family Attached Residential (per unit)	7,500	18 (2)	35	8 (1)(4)	35	35	40%
Two Family Residential	12,000	75	35	8 (4)	35	35	40%
Other Permitted Uses	20,000	75	35	8 (4)	35	35	40%
Conditional Uses	20,000	75	35	8 (4)	35	35	40%
Accessory Uses	-	-	60	5	5 (3)	20	10%

1. The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line.
2. The minimum lot width only applies to the interior lots of a single-family attached development. Exterior lots shall be a minimum 35 ft.
3. Where vehicular access to an accessory building or structure is provided from an alley, such building or structure shall be no closer than 15 feet to the alley. No such structure shall be located on designated easement.
4. Single story structures shall be 8 feet two story structures shall be 10 feet.

#### Section 4.07 R-2 Medium Density Residential District

4.07.01 Intent: The purpose of the Medium Density Residential District is to permit single-family and two-family residences at a high density with an increase of density to include multi-family residential units in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

4.07.02 Permitted Uses: The following principal uses are permitted in the R-2 District.

1. Single family dwellings
2. Two Family dwellings
3. Townhouses
4. Multiple Family dwellings, up to four units
5. Churches, temples, seminaries and convents, including residences for teachers and pastors
6. Public and private schools, colleges, and universities
7. Public uses and facilities, including but not limited to utilities, public offices and buildings, parks and recreational uses
8. Bed and breakfast
9. Family Child Care Home I, Family Child Care Home II

4.07.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-2 District as recommended by the Planning Commission and approved by the City Council.

1. Private and public country clubs and golf courses, not including commercial miniature golf, located on not less than 10 acres
2. Multiple Family dwellings, five or more units
3. Civic, social and fraternal organizations
4. Hospitals, sanitariums, rest homes, nursing homes, convalescent homes, or other similar institutions, philanthropic institutions or funeral homes
5. Mobile Home Parks, provided they meet the following conditions:
  - a. All mobile homes shall be located within a mobile home park.
  - b. The park shall be developed according to a site plan approved by the Zoning Administrator and City Engineer.
  - c. The minimum lot size for a manufactured home shall be 7,000 square feet.
  - d. Manufactured Homes to be placed shall be constructed after 1989.
  - e. There shall be a minimum livable floor area of 800 square feet in each manufactured home that is owned and leased by the park owner.
  - f. Height of Buildings.
    - i. Maximum height for principal uses: 35 feet.
    - ii. Maximum height for accessory uses: 20 feet.



- g. All manufactured home pad locations shall be hard surfaced with properly reinforced poured-in-place concrete. Each lot shall have access to a hard surfaced drive not less than 22 feet in width excluding parking.
  - h. City water and sewage disposal facilities shall be provided with connections to each lot.
  - i. All manufactured homes shall have skirting which is in good repair, meets manufacturer standards, and is in conformance with the color scheme of the trailer. Tie downs shall meet all manufacturer recommendations.
  - j. Service buildings including adequate laundry and drying facilities, and toilet facilities for manufactured homes which do not have these facilities within each unit.
  - k. Not less than 10% of the total court area shall be designated and used for park, playground and recreational purposes.
  - l. Individual lot coverage shall not exceed 45%.
  - m. Storm shelters shall be required and shall meet the following criteria:
    - i. Shelter space equivalent to a minimum of two persons per manufactured home lot,
    - ii. Designed in conformance with "National Performance Criteria for Tornado Shelters," by FEMA and any other referenced material by FEMA,
    - iii. Shelters shall be sited in order to provide maximum protection to park occupants and so that residents may reach a shelter within the maximum safe time frame as directed by FEMA.
  - n. All manufactured home pad locations shall be hard surfaced with properly reinforced poured-in-place concrete.
  - o. All manufactured homes shall have skirting which is in good repair, meets manufacturer standards, and is in conformance with the color scheme of the trailer.
  - p. All off-street parking shall be hard surfaced.
  - q. All manufactured homes shall comply with all other City ordinances.
  - r. A complete plan of the manufactured home park shall be submitted showing:
    - i. A development plan and grading plan of the court.
    - ii. The area and dimensions of the tract of land.
    - iii. The number, location, and size of all manufactured home spaces.
    - iv. The number, location, and size of all hard surfaced pads shall be shown.
    - v. The area and dimensions of the park, playground and recreation areas.
    - vi. The location and width of roadways and walkways.
    - vii. The location of service buildings and any other proposed structures.
    - viii. The location of water and sewer lines and sewage disposal facilities.
    - ix. Plans and specifications of all buildings and other improvements constructed or to be constructed within the manufactured home park.
  - 6. Taxidermy, pursuant to Home Occupation Section 8.01
  - 7. Non-conforming residential structure. The City may allow a permit to expand an existing non-conforming single-family dwelling or accessory structure. In addition to the regular requirements of a conditional use permit, the following requirements must be met:
    - a. Permit cannot authorize a new type of non-conformity of use or structure or increase the degree of non-conformity
    - b. A structure must be located on a lot of less than 5,000 square feet
8. Child Care Centers

4.07.04 Temporary Uses: The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.

- 1. Farmer's market
- 2. Fireworks Stand
- 3. Temporary Greenhouse

4.07.05 Accessory Uses:

- 1. Buildings and uses customarily incidental to the principal use
- 2. Home occupation, pursuant to Section 8.01

4.07.06 Height and Lot Requirements: The height and minimum lot requirements shall be follows:

Use	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Single Family Detached	6,000	75	30	8 (6)	25	35	40%
Single Family Attached (per unit)	3,750	18 (4)	30	8 (1)(6)	25	35	40%
Two Family	8,000	75	30	8 (6)	25	35	40%
Multiple Family	2,900 per unit	100	30	8 (2)(6)	25	45	40%
Other Permitted Uses	10,000	100	30	8 (6)	25	35	30%
Conditional Uses	10,000	100	30	8 (6)	25	35	30%
Accessory Uses	-	-	60	5	5 (5)	20	10% (3)

1. The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line.
2. For Multi-family units shall be 10 feet if it is a three-story structure, and two feet additional side yard on each side shall be provided for each story in excess of three stories.
3. Provided total area of accessory structure for single-family does not exceed 1,200 sq. ft. and the total lot coverage of all buildings does not exceed 40%. Except in the case where the lot width is less than 65 feet then total lot coverage can equal 60%
4. The minimum lot width only applies to the interior lots of a single-family attached development. Exterior lots shall be a minimum 35 feet.
5. Where vehicular access to an accessory building or structure is provided from an alley, such building or structure shall be no closer than 15 feet to the alley. No such structure shall be located on designated easement.
6. Single story structures shall be 8 feet two story structures shall be 10 feet.

#### Section 4.08 R-3 High Density Residential District

4.08.01 Intent: The purpose of the High Density Residential District is to permit single-family and two-family residences at a high density with an increase of density to include multi-family residential units in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

4.08.02 Permitted Uses: The following principal uses are permitted in the R-3 District.

1. ~~Single-family dwellings~~
2. Two Family dwellings
3. Townhouses
4. Multiple Family dwellings, up to four units
5. Churches, temples, seminaries and convents, including residences for teachers and pastors
6. Public and private schools, colleges, and universities
7. Public uses and facilities, including but not limited to utilities, public offices and buildings, parks and recreational uses
8. Hospitals, sanitariums, rest homes, nursing homes, convalescent homes, or other similar institutions, philanthropic institutions
9. Bed and breakfast
10. Family Child Care Home I, Family Child Care Home II

4.08.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-3 District as recommended by the Planning Commission and approved by the City Council.

1. Private and public country clubs and golf courses, not including commercial miniature golf, located on not less than 10 acres
2. Multiple Family dwellings, five or more units
3. Civic, social and fraternal organizations
4. Professional Offices, Mortuaries and Funeral Homes
5. Mobile Home Parks, provided they meet the following conditions:
  - a. All mobile homes shall be located within a mobile home park.
  - b. The park shall be developed according to a site plan approved by the Zoning Administrator and City Engineer.
  - c. The minimum lot size for a manufactured home shall be 7,000 square feet.
  - d. Manufactured Homes to be placed shall be constructed after 1989.

- e. There shall be a minimum livable floor area of 800 square feet in each manufactured home that is owned and leased by the park owner.
- f. Height of Buildings.
  - i. Maximum height for principal uses: 35 feet.
  - ii. Maximum height for accessory uses: 20 feet.
- g. All manufactured home pad locations shall be hard surfaced with properly reinforced poured-in-place concrete. Each lot shall have access to a hard surfaced drive not less than 22 feet in width excluding parking.
- h. City water and sewage disposal facilities shall be provided with connections to each lot.
- i. All manufactured homes shall have skirting which is in good repair, meets manufacturer standards, and is in conformance with the color scheme of the trailer. Tie downs shall meet all manufacturer recommendations.
- j. Service buildings including adequate laundry and drying facilities, and toilet facilities for manufactured homes which do not have these facilities within each unit.
- k. Not less than 10% of the total court area shall be designated and used for park, playground and recreational purposes.
- l. Individual lot coverage shall not exceed 45%.
- m. Storm shelters shall be required and shall meet the following criteria:
  - i. Shelter space equivalent to a minimum of two persons per manufactured home lot,
  - ii. Designed in conformance with "National Performance Criteria for Tornado Shelters," by FEMA and any other referenced material by FEMA,
  - iii. Shelters shall be sited in order to provide maximum protection to park occupants and so that residents may reach a shelter within the maximum safe time frame as directed by FEMA.
- n. All manufactured home pad locations shall be hard surfaced with properly reinforced poured-in-place concrete.
- o. All manufactured homes shall have skirting which is in good repair, meets manufacturer standards, and is in conformance with the color scheme of the trailer.
- p. All off-street parking shall be hard surfaced.
- q. All manufactured homes shall comply with all other City ordinances.
- r. A complete plan of the manufactured home park shall be submitted showing:
- s. A development plan and grading plan of the court.
  - i. The area and dimensions of the tract of land.
  - ii. The number, location, and size of all manufactured home spaces.
  - iii. The number, location, and size of all hard surfaced pads shall be shown.
  - iv. The area and dimensions of the park, playground and recreation areas.
  - v. The location and width of roadways and walkways.
  - vi. The location of service buildings and any other proposed structures.
  - vii. The location of water and sewer lines and sewage disposal facilities.
  - viii. Plans and specifications of all buildings and other improvements constructed or to be constructed within the manufactured home park.
- 6. Taxidermy, pursuant to Home Occupation Section 8.01
- 7. Non-conforming residential structure. The City may allow a permit to expand an existing non-conforming single-family dwelling or accessory structure. In addition to the regular requirements of a conditional use permit, the following requirements must be met:
  - a. Permit cannot authorize a new type of non-conformity of use or structure or increase the degree of non-conformity
  - b. A structure must be located on a lot of less than 5,000 square feet
- 8. Child Care Centers

4.08.04 Temporary Uses: The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.

- 1. Farmer's market
- 2. Firework's stand
- 3. Temporary Greenhouse

4.08.05 Accessory Uses:

3. Buildings and uses customarily incidental to the principal use
4. Home occupation, pursuant to Section 8.01

4.08.06 Height and Lot Requirements: The height and minimum lot requirements shall be follows:

Use	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Single Family Detached	6,000	60	30	8 (6)	35	35	40%
Single Family Attached (per unit)	3,750	18 (4)	30	8 (1)(6)	35	35	40%
Two Family	8,000	70	30	8 (6)	35	35	40%
Multiple Family	2,000 per unit	70	30	8 (2)(6)	35	45	40%
Other Permitted Uses	10,000	70	30	8 (6)	35	35	30%
Conditional Uses	10,000	70	30	8 (6)	35	35	30%
Accessory Uses	-	-	60	5	5 (5)	20	10% (3)

1. The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line.
2. For Multi-family units shall be 10 feet if it is a three-story structure, and two feet additional side yard on each side shall be provided for each story in excess of three stories.
3. Provided total area of accessory structure for single-family does not exceed 1,200 sq. ft. and the total lot coverage of all buildings does not exceed 40%. Except in the case where the lot width is less than 65 feet then total lot coverage can equal 60%.
4. The minimum lot width only applies to the interior lots of a single-family attached development. Exterior lots shall be a minimum 35 feet.
5. Where vehicular access to an accessory building or structure is provided from an alley, such building or structure shall be no closer than 15 feet to the alley. No such structure shall be located on designated easement.
6. Single story structures shall be 8 feet two story structures shall be 10 feet.

**Section 4.09 C-1 Highway Commercial District**

4.09.01 Intent: The Highway Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community.

4.09.02 Permitted Uses:

The following shall be permitted outright provided the requirements of this ordinance can be met.

1. General offices, including those that require storage of equipment and light construction to be done on site
2. Professional offices
3. Hospitals, medical clinics, sanitariums, rest homes, nursing homes, convalescent homes, or other similar institutions, philanthropic institutions or funeral homes
4. Private clubs and lodges
5. Bowling alleys, skating rinks, dance halls
6. Private, business or trade school
7. Assembly hall, civic, social or fraternal organizations
8. Garden supply and retail garden center
9. Home improvement store, or lumber yard
10. Department store
11. Veterinarian clinics
12. Automobile sales, mechanical service and repair, with or without fuel sales
13. Retail businesses, such as
  - a. Antique or gift store
  - b. Appliance store
  - c. Automobile parts store
  - d. Bakery/Food preparation for off-site consumption
  - e. Bank
  - f. Bar
  - g. Barber or hair salon
  - h. Clothing, shoe, and tailor shops
  - i. Convenience store with fuel sales

- j. Electronics store
  - k. Furniture store
  - l. Grocery or pharmacy
  - m. Hardware store
  - n. Laundromat or dry cleaner
  - o. Photography studio
  - p. Photocopy shop
  - q. Restaurant
  - r. Theater
  - s. Other uses similar in nature
14. Publicly owned and operated parks, playgrounds, fire stations, community centers, public offices, public shop/storage, and libraries
15. Hotel/Motel, Trailer campgrounds

4.09.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the C-1 District as recommended by the Planning Commission and approved by the City Council.

- 1. Recreational establishments
- 2. Bed and Breakfast
- 3. Temporary greenhouse
- 4. Car wash
- 5. Truck Wash
- 6. Outdoor Entertainment
- 7. Residences in conjunction with the principle use when located above the ground floor
- 8. Churches, temples, seminaries, and convents including residences for teachers and pastors
- 9. Printing and publishing
- 10. Agricultural machinery sales and service
- 11. Vehicle repair services, including paint and/or body repair
- 12. Family Child Care Home I, Family Child Care Home II, and Child Care Centers

4.09.04 Temporary Uses: The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

- 1. Fireworks stands
- 2. Farmers market
- 3. Temporary greenhouse

4.09.05 Accessory Uses:

- 1. Buildings and uses customarily incidental to the permitted uses

4.09.06 Height and Lot Requirements: The height and minimum lot requirements shall be follows:

Use	Lot Area (sq.ft) (3)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	-	-	30	(1)	25	35	80%
Conditional Uses	-	-	30	(1)	25	35	80%
Accessory Uses	-	-	30	(1)	25	35	40%

- 1. None, except that when adjacent to any residential or agricultural district, the side yard setback shall be 25 feet. No such structure shall be located on designated easement.

4.09.07 Miscellaneous Provisions:

- 1. When adjacent to residentially zoned land, no parking or drives shall be allowed in the required front yard within 15 feet of such district. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- 2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

**Section 4.10 C-2 Business District**

4.10.01 Intent: The Business District is intended to provide for commercial development within the existing downtown area of Hartington that will benefit the retail trade, business, cultural, and social activities of the entire community.

4.10.02 Permitted Uses: The following shall be permitted outright provided the requirements of this Ordinance can be met.

1. General offices, including those that require storage of equipment and light construction to be done on site
2. Professional offices
3. Public uses and facilities, including but not limited to utilities, public offices and buildings, public shop/storage, parks and recreational uses
4. Family Child Care Home I, Family Child Care Home II, and Child Care Centers
5. Assembly hall, civic, social or fraternal organizations
6. Bowling alleys, dance halls
7. Hotel/Motel
8. Retail businesses, such as
  - a. Antique or gift store
  - b. Appliance store
  - c. Automobile parts store
  - d. Bakery
  - e. Bar
  - f. Barber or hair salon
  - g. Clothing, shoe, and tailor shops
  - h. Convenience Store
  - i. ~~Electronics store~~
  - j. Furniture store
  - k. Grocery or pharmacy
  - l. Hardware store
  - m. Lumber yard
  - n. Laundromat or dry cleaner
  - o. Photography studio
  - p. Photocopy shop
  - q. Restaurant
  - r. Theater
  - s. Other uses similar in nature

4.10.03 Conditional Uses: A building or premises may be used for the following purposes in the C-1 Downtown Commercial District if a conditional use permit for such use has been obtained in accordance with Article 6 of this Ordinance.

1. Recreational establishments
2. Private, business or trade school
3. Garden supply and retail garden center
4. Car wash
5. Outdoor entertainment
6. Convenience store with fuel sales
7. Residences in conjunction with the principle use when located above the ground floor
8. Multifamily dwellings used as the principle use
9. Churches, temples, seminaries, and convents including residences for teachers and pastors
10. Printing and publishing
11. Retail motor vehicle sales
12. Service station with fuel sales
13. Vehicle repair services, including paint or body repair

14. Veterinarian clinics
15. Outdoor lounge or beer garden

4.10.04 Temporary Uses: The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.

1. Temporary greenhouses
2. Farmers market
3. Fireworks stand

4.10.05 Accessory Uses: The following accessory uses and structures shall be permitted. Buildings and uses customarily incidental to the permitted uses

4.10.06 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

Use	Lot Area (sq.ft)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height
Permitted Uses	-	-	-	(1)	(2)	75
Permitted Conditional Uses	-	-	-	(1)	(2)	75
Accessory Buildings	-	-	-	(1)	(2)	75

1. None, except that when adjacent to any district requiring a side yard, the side yard setback shall be 10 feet. No such structure shall be located on designated easement.
2. None, except that when adjacent to any residential district, the rear yard setback shall be 25 feet. No such structure shall be located on designated easement.

4.10.07 Use Limitations:

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within 15 feet of such residential district.
2. When adjacent to any residential district, new construction shall provide a six foot high permanent screen in order to minimize impacts on residentially zoned property, pursuant to Section 8.03.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

#### Section 4.11 I-1 Light Industrial District

4.11.01 Intent: It is the intent of the Light Industrial District to provide standards for areas suitable for some industrial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, that these areas should be served with adequate transportation facilities, and that user of this land conduct activities that create low hazards to adjacent properties.

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

4.11.02 Permitted Uses: The following principal uses are permitted in the I-1 District.

1. Any use permitted in the C-1 Highway Commercial District
2. Assembly, fabrication, manufacture, and processing of products inside an enclosed building, except hazardous or combustible materials or methods producing excessive noise, odor, or vibration
3. Automobile storage yard, provided all vehicles are kept in an enclosed and screened area
4. Building materials yards with enclosed and screened storage areas
5. Construction and heavy equipment sales and service
6. Contractor's yard
7. Farm and industrial equipment sales
8. Highway maintenance yards or buildings

9. Laboratories
10. Printing and publishing business
11. Research facilities
12. Self-storage units provide the standards of Section 8.07 are met
13. Stone and monument works
14. Publicly owned and operated parks, playgrounds, fire stations, community centers, City offices, and libraries
15. Warehouses and wholesale businesses

4.11.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the I-1 District as recommended by the Planning Commission and approved by the City Council.

1. Alfalfa dehydrating plant,
2. Asphalt mixing, manufacture, or refining
3. Auto body repair shops, provided the following minimum standards are met:
  - a. all vehicles waiting on repair shall be behind an opaque screened area
  - b. all exhaust fumes from painting areas shall meet all Federal and State requirements
  - c. All parts shall be in a screened in area.
  - d. Parts shall not be stack taller than the fence or wall
  - e. Parts are not intended to be inventoried for more than a one year period
  - f. Screened areas and business are not to be used in a manner that would be defined as either an "Automobile Wrecking Yard" or "Junk Yard".
  - g. Screened in areas shall be opaque fence or solid wall at least eight feet in height.
4. Automobile junk yard or wrecking yard provided the standards of Section 8.08 are met
5. Concrete or cement product manufacturing
6. Dying and cleaning establishments
7. Ethanol plant

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8. Grain storage bins and elevators
9. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs
10. Small wind energy systems pursuant to Section 8.03
11. Telecommunication and broadcast tower, pursuant to Section 8.02
12. Truck terminal and dock facilities to include truck washing
13. Adult Entertainment establishments shall conform to these regulations:
  - a. No Adult business shall be closer than 1,000 feet to any similar use and no closer than 3,000 feet to a residential district or use, religious use, educational use or recreational use. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the closest point on the property line of such other adult business, residential district or use, religious use, educational use or recreational use.
  - b. Said businesses shall be screened along adjoining property lines so as to prevent any direct visual contact of the adult business from the perimeter.
  - c. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
  - d. No adult business shall be open for business between the hours of twelve-midnight (12:00 a.m.) and six a.m. (6:00 a.m.).
  - e. The proposed location, design, construction and operation of the particular use shall provide adequate safeguards to protect the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
  - f. Such use shall not impair an adequate supply of light and air to surrounding property.
  - g. Such use shall not unduly increase congestion in the streets or public dangers, including fire and safety hazards.



- h. Such use shall not diminish or impair established property values in adjoining or surrounding property.
- i. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of Hartington, Nebraska.
- j. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property. The application shall also include a site plan defining the areas to be developed for buildings and structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.
- k. An adult business shall post a sign at the entrance of the premises that shall state the nature of the business and shall state that no one under the age of 18 years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for admission to the premises.
- l. Prohibited Activities of Adult Businesses:
  - i. No adult business shall employ any person less than 18 years of age.
  - ii. No adult business shall furnish any merchandise or services to any person who is under 18 years of age.
  - iii. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.
  - iv. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.

14. Family Child Care Home I, Family Child Care Home II, and Child Care Centers

4.11.04 Temporary Uses: The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.

- 1. Fireworks stands
- 2. Farmers market
- 3. Temporary greenhouse

4.11.05 Accessory Uses:

- 1. Buildings and uses customarily incidental to the permitted uses

4.11.06 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	10,000	45	25	0(1)	0(2)	45	60%
Conditional Uses	10,000	45	25	0(1)	0(2)	45	60%
Accessory Uses	-	-	25	0(1)	0(2)	45	60%

- 1. When adjacent to any agricultural or residential district, the side yard setback shall be 25 feet.
- 2. When adjacent to any agricultural or residential district, the rear yard setback shall be 25 feet.

**CHART AMENDED April 25, 2011 – ORDINANCE #815**

4.11.07 Miscellaneous Provisions:

- 1. The maximum height requirement may be exceeded, provided the setback is increased by one foot for every one foot increase in building height.
- 2. When adjacent to residentially zoned land, no parking, driveways or signs shall be allowed in the required front yard within 25 feet of said residential district.

3. Exterior lighting fixtures, other than publicly installed street lights, shall be located and installed to reflect light away from abutting residential properties.

4.11.08 Performance Standards: See Section 8.04 of the Supplemental Regulations.

#### **Section 4.12 I-2 Heavy Industrial District**

4.12.01 Intent: It is the intent of the Heavy Industrial District to provide standards for areas suitable for some intense industrial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, that these areas should be served with adequate transportation facilities, and that user of this land conduct activities that create low to moderate hazards to adjacent properties.

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

4.12.02 Permitted Uses: The following principal uses are permitted in the I-1 District.

1. Any use permitted in the I-1 Light Industrial District
2. Assembly, fabrication, manufacture, and processing of products inside an enclosed building, except hazardous or combustible materials or methods producing excessive noise, odor, or vibration
3. Automobile storage yard, provided all vehicles are kept in an enclosed and screened area
4. Building materials yards with enclosed and screened storage areas
5. Construction and heavy equipment sales and service
6. Contractor's yard
7. Farm and industrial equipment sales
8. Highway maintenance yards or buildings
9. Laboratories
10. Printing and publishing business
11. Research facilities
12. Self-storage units provide the standards of Section 8.07 are met
13. Stone and monument works
14. Publicly owned and operated parks, playgrounds, fire stations, community centers, City offices, and libraries
15. Warehouses and wholesale businesses

4.12.03 Conditional Uses: The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the I-1 District as recommended by the Planning Commission and approved by the City Council.

1. Alfalfa dehydrating plant.
2. Asphalt mixing, manufacture, or refining
3. Auto body repair shops, provided the following minimum standards are met:
  - h. all vehicles waiting on repair shall be behind an opaque screened area
  - i. all exhaust fumes from painting areas shall meet all Federal and State requirements
  - j. All parts shall be in a screened in area.
  - k. Parts shall not be stack taller than the fence or wall
  - l. Parts are not intended to be inventoried for more than a one year period
  - m. Screened areas and business are not to be used in a manner that would be defined as either an "Automobile Wrecking Yard" or "Junk Yard".
  - n. Screened in areas shall be opaque fence or solid wall at least eight feet in height.
4. Automobile junk yard or wrecking yard provided the standards of Section 8.08 are met
5. Concrete or cement product manufacturing
6. Dying and cleaning establishments
7. Ethanol plant
8. Grain storage bins and elevators

9. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs
10. Small wind energy systems pursuant to Section 8.03
11. Telecommunication and broadcast tower, pursuant to Section 8.02
12. Truck terminal and dock facilities to include truck washing
13. Tanning, curing, or storage of raw hides or skins
14. Processing and/or packaging of meat or poultry excluding the slaughtering of the animals
15. Adult Entertainment establishments shall conform to these regulations:
  - m. No Adult business shall be closer than 1,000 feet to any similar use and no closer than 3,000 feet to a residential district or use, religious use, educational use or recreational use. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the closest point on the property line of such other adult business, residential district or use, religious use, educational use or recreational use.
  - n. Said businesses shall be screened along adjoining property lines so as to prevent any direct visual contact of the adult business from the perimeter.
  - o. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
  - p. No adult business shall be open for business between the hours of twelve-midnight (12:00 a.m.) and six a.m. (6:00 a.m.).
  - q. The proposed location, design, construction and operation of the particular use shall provide adequate safeguards to protect the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
  - r. Such use shall not impair an adequate supply of light and air to surrounding property.
  - s. Such use shall not unduly increase congestion in the streets or public dangers, including fire and safety hazards.
  - t. Such use shall not diminish or impair established property values in adjoining or surrounding property.
  - u. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of Hartington, Nebraska.
  - v. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property. The application shall also include a site plan defining the areas to be developed for buildings and structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.
  - w. An adult business shall post a sign at the entrance of the premises that shall state the nature of the business and shall state that no one under the age of 18 years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for admission to the premises.
  - x. Prohibited Activities of Adult Businesses:
    - i. No adult business shall employ any person less than 18 years of age.
    - ii. No adult business shall furnish any merchandise or services to any person who is under 18 years of age.
    - iii. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.
    - iv. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.
16. Family Child Care Home I, Family Child Care Home II, and Child Care Centers

4.12.04 Temporary Uses: The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit.

1. Fireworks stands
2. Farmers market
3. Temporary greenhouse

Accessory Uses:

2. Buildings and uses customarily incidental to the permitted uses

4.12.05 Height and Lot Requirements: The height and minimum lot requirements shall be as follows:

	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	10,000	45	0	0(1)	0(3)	120 (2)	60%
Conditional Uses	10,000	45	0	0(1)	0(3)	120 (2)	60%
Accessory Uses	-	-	0	0(1)	0(3)	120 (2)	60%

1. When adjacent to any residential or agricultural district, the side yard setback shall be 20 feet.
2. When within 100ft of a residential district the maximum height shall be 35 feet.
3. When adjacent to any residential or agricultural district, the rear yard setback shall be 35 feet.

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4.12.06 Miscellaneous Provisions:

4. The maximum height requirement may be exceeded, provided the setback is increased by one foot for every one foot increase in building height.
5. When adjacent to residentially zoned land, no parking, driveways or signs shall be allowed in the required front yard within 25 feet of said residential district.
6. Exterior lighting fixtures, other than publicly installed street lights, shall be located and installed to reflect light away from abutting residential properties.

4.12.07 Performance Standards: See Section 8.04 of the Supplemental Regulations.

This Ordinance shall take effect upon its passage and approval and publication as required by law.

PASSED and APPROVED this 26<sup>th</sup> day of February, 2024.



CITY OF HARTINGTON, NEBRASKA

MARK BECKER  
By: MARK BECKER, Mayor

ATTEST:

BRITNI BENSCOTER  
BRITNI BENSCOTER, City Clerk

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**ARTICLE 5: CONDITIONAL USE PERMITS**

**Section 5.01 General Provisions**

The City Council may, by conditional use permit after a referral and recommendation from the Planning Commission, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The City Council may grant or deny a conditional use permit in accordance with the intent and purpose of this ordinance. In granting a conditional use permit, the City Council will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit.

**Section 5.02 Application for Conditional Use Permit**

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the City. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted.

**Section 5.03 Decisions**

A majority vote of the City Council shall be necessary to grant a conditional use permit. No order of the City Council granting a conditional use permit shall be valid for a period of longer than 12 months from the date of such order, unless the City Council specifically grants a longer period of time.

**Section 5.04 Standards**

No conditional use permit shall be granted unless the Planning Commission and City Council have found:

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
2. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
3. That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, and drainage facilities have been or are being provided.
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
7. The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
8. The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
9. The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any public street, road, or highway.
10. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
11. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

**Section 5.05 Conditions**

In addition to the Standards listed herein, the Planning Commission may recommend, and the City Council may adopt such other conditions as may be necessary or desirable to address such concerns as the most appropriate use of the land, the conservation and stabilization of the value of property, the provision of adequate open space for light and air, concentration of populations, congestion of public streets, and the promotion of the general health, safety, welfare, convenience, and comfort of the public. The City Council may require such conditions and restrictions upon the Conditional Use Permit as may be deemed necessary for the protection of the public interest and to secure compliance with this Ordinance.

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**ARTICLE 6: PARKING REGULATIONS**

**Section 6.01 Off-Street Automobile Storage**

1. 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 not identified, the ratio of 200 square feet per parking space shall be used.
2. 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.
3. Some uses may require two different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require tabulation for classrooms and assembly areas).
4. All parking spaces for single-family dwellings, two or more unit multi-family dwellings, convalescent homes, apartments, townhouses, and mobile homes shall have a suitable hard surface including crushed rock, asphalt or concrete.
5. Off-street parking requirements shall not apply to the C-2 Zoning District.
6. In Districts R-1, R-2 and R-3, required off-street parking shall be provided on the lot on where the use to which the parking pertains, or immediately adjacent thereto. In other Districts, such parking may be provided either on the same lot or an adjacent or other lot, provided, however, the lot on which the use requiring them is located and the lot providing the parking are not separated by more than 400 feet at closest points, measured along a street or streets. 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. 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.

**Section 6.02 Off-street Parking: Shared Parking Requirements**

Notwithstanding the provisions of this article, in cases 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 City Council. Said request for a decrease in parking spaces shall be made as an Application for a Conditional Use Permit.

**Section 6.03 Schedule of Minimum Off-Street Parking and Loading Requirements**

Uses	Parking Requirements	Loading Requirements
Adult Entertainment Establishments	One space per two persons of licensed capacity	None required
Bowling Alleys	Four spaces per alley plus one per two employees	One space per establishment
Churches, Synagogues, and Temples	One space per four seats or eight feet of pew length in main worship area	None required
Clubs, including fraternal organizations	One space per 500 s.f. of gross floor area	None required
College/University	Eight spaces per classroom plus one space per employee	Two spaces per structure
<b>Commercial Uses</b>		
Agricultural Sales / Service	One space per 500 s.f. of gross floor area	One per establishment
Automotive Rental / Sales	One space per 500 s.f. of gross floor area	One per establishment
Automotive Servicing	Three spaces per repair stall	None required
Bars, Taverns, Nightclubs	Parking equal to 30% of licensed capacity	Two spaces per establishment
Automotive Body Repair	Four spaces per repair stall	None required
Dance Hall	One space per 100 s.f. of gross floor area plus one space per employee	One per establishment
Equipment Rental / Sales	One space per 500 s.f. of gross floor area	One Space
Campground	One space per camping unit	None required
Commercial Recreation	One space per four persons of licensed capacity	One per establishment
Communication Services	One space per 500 s.f. of gross floor area	One per establishment
Construction Sales / Service	One space per 500 s.f. of gross floor area	One per establishment
Food Sales (limited)	One space per 300 s.f. of gross floor area	One per establishment
Food Sales (general)	One space per 200 s.f. of gross floor area	Two per establishment
General Retail Sales establishments	One space per 200 s.f. of gross floor area	One per establishment
Laundry Services	One space per 200 s.f. of gross floor area	None required
Restaurants w/ drive-thru	Greater of the two: One space per 40 s.f. of dining area, or One space per 150 s.f. of gross floor area	One per establishment
Restaurants (General)	Parking equal to 30% of licensed capacity	Two spaces per establishment
Nursing Home	One space per three beds plus one per employee on the largest shift	Two space per structure
Day Care	One space per employee plus 1 space or loading stall per each 10 persons of licensed capacity	None required
Educational Uses, Primary facilities	Two spaces per classroom	Two spaces per structure
Educational Uses, Secondary facilities	Eight spaces per classroom plus one space per employee on largest shift	Two spaces per structure
Funeral Homes and Chapels	Eight spaces per reposeing room	Two spaces per establishment
Group Home	One space per four persons of licensed capacity	Two space per structure
Hospitals	One space per two licensed beds	Three spaces per structure
Hotels and Motels	One space per rental unit plus one per two employees on largest shift	One space per establishment



**Article 6: Parking Regulations**

<b>Housing (Congregate)</b>		
Assisted-living facilities	One space per dwelling unit plus one space per employee on the largest shift	One per structure
Duplex	Two spaces per dwelling unit	None required
Multi-family / Apartments / Dormitory / Student Lodging	One space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
<b>Industrial Uses</b>	Three spaces for every four employees during the largest shift (.75 times number of employees.)	Two spaces per establishment
Libraries	One space per 400 s.f. of gross floor area plus one space per employee	One per structure
Boarding Houses / Bed and Breakfasts	One space per rental units	None required
Medical Clinics	Five spaces per staff doctor, dentist, chiropractor	None required
Mobile Home Park	Two per dwelling unit	None required
Offices and Office Buildings	One space per 200 s.f. of gross floor area	None required
Residential (Single-family, attached and detached)	Two spaces per dwelling unit	None required
Roadside stands	Four spaces per establishment	None required
Service Oriented Establishments	One space per 200 s.f. of gross floor area	One per establishment
Theaters, Auditoriums, and Places of Assembly	One space per five persons of licensed capacity	One space per establishment
Veterinary Clinic	Three spaces per staff doctor	None required
Wholesaling / Distribution Operations	One space per two employees on the largest shift	Two spaces per establishment

**Section 6.04 Off-Street Parking: Parking for Individuals with Disabilities**

1. 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 lot, if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured from that lot.

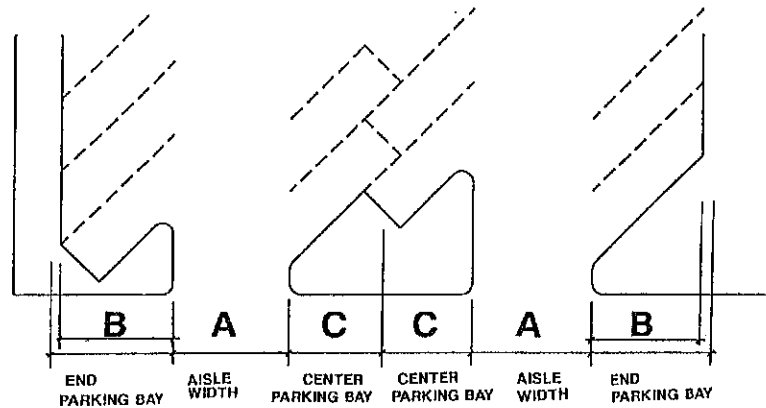
Total Parking Spaces	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of the total
1,001 and over	20, plus 1 for each 100 over 1,000

2. Access aisles adjacent to accessible spaces shall be five feet wide minimum.
  - a. One in every eight accessible spaces, but not less than one, shall be served by an access aisle eight feet wide minimum and shall be designated "van accessible." The vertical clearance at such spaces shall comply with this section. All such spaces may be grouped on one level of a parking structure.
  - b. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle.
  - c. 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 two percent in all directions.
  - d. If passenger-loading zones are provided, then at least one passenger loading zone shall comply with this section.
  - e. At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with this Ordinance shall be provided in accordance with this section; except as follows:
    - i. Outpatient units and facilities: 10 percent of total number of parking spaces provided serving each such outpatient unit or facility;
    - ii. Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.
3. 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.
  - a. 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.
  - b. In buildings with multiple accessible entrances and adjacent parking, the accessible parking spaces shall be dispersed and located closest to each accessible entrance.
4. Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces for vans shall have an additional sign stating "Van Accessible" mounted below the symbol of accessibility. Such signs shall be located so a vehicle parked in the space cannot obscure them.
5. The minimum vertical clearance shall be nine and one-half feet at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s).
6. Passenger Loading Zones shall provide an access aisle at least five feet wide and 20 feet 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 two percent in all directions.

**Section 6.05 Off-Street Parking Design Criteria**

- Standard parking stall dimensions shall not be less than nine feet by 18 feet, plus the necessary space for maneuvering into and out of the space. For standard parking lots, minimum dimensions shall be as follows:

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



- All areas used for standing and maneuvering of vehicles shall be designed such that drainage across sidewalks is minimized.
- Where the end of the parking space abuts a curbed area at least five feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet.
- Minimum dimensions for a parallel parking space shall be nine feet by 23 feet.
- Artificial lighting used in a parking lot shall be so designed as to deflect light away from adjacent residential dwellings.
- All parking spaces, except for those used in conjunction with a residential dwelling, shall be located such and served with a driveway such that their use will require no backing movements or maneuvering within a street right-of-way other than an alley.
- Service drives shall not be more than 30 feet in width, and shall conform to the minimum sight triangle requirements for unobstructed vision. Service drives shall also be clearly and permanently marked and defined through the use of rails, fences, walls, or other barriers or markers.
- Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the City Council upon recommendation of the City Engineer.
- All of the requirements of this Section shall be complied with, and all off-street parking requirements shall be made available for use prior to the issuance of a Certificate of Occupancy. A time extension may be granted by the Zoning Administrator, provided a performance bond, or its equivalent, is posted which equals the cost to complete the parking improvements as estimated by the Zoning Administrator, and provided the parking requirements are not required for immediate use. In the event the improvements are not completed within one year of any such extension, the bond or its equivalent shall be forfeited and the improvements shall be completed under the direction of the City Council.

**ARTICLE 7: SIGN REGULATIONS**

**Section 7.01 Standard of Measurement**

1. The total area of all signs permitted on a lot shall include:
  - a. The total area of the faces of all permanent exterior signs visible from a public way, plus
  - b. The area of permanent signs placed upon the surface of windows and doors, plus
  - c. The area within the outline enclosing the lettering, modeling or insignia of signs integral with a wall and not designed as a panel.
2. Wall signs shall not exceed one and one-half square feet per lineal foot of lot frontage, up to 100 square feet in total area. A building or use having frontage on a second street may increase its allowable square footage by including 20 percent of the length of the lot frontage along the second street, up to 120 square feet in total area.

**Section 7.02 Area Computation**

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, representation, emblem, or other display, 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 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 base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign, or (2) normal grade. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.

**Section 7.03 Sign Schedule**

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

Zoning District	A-1	R-1	R-2	R-2	C-1	C-2	I-1	I-2
<b>Sign Type</b>								
Real Estate	+	+	+	+	+	+	+	+
Announcement	+	+	+	+	+	+	+	+
Wall	+	-	-	-	+	+	+	+
Name Plate	+	+	+	+	+	+	+	+
Billboard	C	-	-	-	-	-	-	-
Ground	C	-	-	-	+	+	+	+
On-Site Advertising	+	-	-	-	+	+	+	+
Off-Site Advertising	C	-	-	-	C	-	-	-
Animated or Flashing	-	-	-	-	C	C	-	-
Pole	-	-	-	-	+	+	+	+

+: permitted      -: not permitted      C: Conditional Use

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

Zoning District	A-1	R-1	R-2	R-3	C-1	C-2	I-1	I-2
<b>Sign Type</b>								
<b>Real Estate</b>								
Max. Square Ft.	32	6	6	6	32	32	32	32
Max. Height (ft)	6	-	-	-	4	4	4	4
<b>Announcement</b>								
Max. Square Ft.	32	6	6	6	32	32	32	32
Max. Height (ft)	4	4	4	4	4	4	4	4
<b>Wall</b>								
Max. Square Ft.	50	-	-	-	100	100	200	200
Max. Height (ft)	15	-	-	-	45	45	45	45
<b>Name Plate</b>								
Max. Square Ft.	2	2	2	2	2	2	2	2
Max. Height (ft)	-	-	-	-	-	-	-	-
<b>Billboard</b>								
Max. Square Ft.	-	-	-	-	-	-	-	-
Max. Height (ft)	-	-	-	-	-	-	-	-
<b>Ground</b>								
Max. Square Ft.	100	-	-	-	100	100	200	200
Max. Height (ft)	10	-	-	-	10	10	10	10
<b>On-Site Advertising</b>								
Max. Square Ft.	100	-	-	-	100	100	200	200
Max. Height (ft)	45	-	-	-	45	45	45	45
<b>Off-Site Advertising</b>								
Max. Square Ft.	-	-	-	-	-	-	-	-
Max. Height (ft)	64	-	-	-	64	-	-	-
<b>Pole</b>								
Max. Square Ft.	-	-	-	-	100	100	200	200
Max. Height (ft)	-	-	-	-	15	15	15	15

- : Not Permitted

**Section 7.04 Special Conditions**

1. Temporary Signs: Temporary signs:
  - a. Shall not be of such size, message, or character so to harm the public, health, safety, or general welfare.
  - b. May be displayed for a period not to exceed 14 days, except real estate signs which may be displayed until the subject property is sold, and construction signs which may be displayed until such construction is completed.
2. Campaign signs: are limited to six per lot, may be erected 30 days before the election and shall be removed no later than seven days following such election.
3. Real Estate signs shall be limited to two per lot; when located in the A-1 District, they shall be set back 20 feet from the road right-of-way or road easement.
4. Freestanding signs, including but not limited to billboard, ground, and pole signs shall constitute a structure for the purposes of this Ordinance, and shall require a zoning permit prior to their installation.
5. Community Event signs used to display information for a community event or function shall be permitted in all zoning districts, provided they are temporary only, and are not placed in the right-of-way.
6. Billboards, signboards, and other similar advertising signs shall be subject to the same height and location requirements as other structures in the district, and shall also:
  - a. be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
  - b. be located within 50 feet of any lot in a residential district.
  - c. be so constructed or located to unreasonably interfere with the use and enjoyment of adjoining property.
7. Hanging signs from canopies and awnings shall be no closer than eight feet to the grade below.
8. Signs in the public right-of-way, shall be prohibited, except for the following:

- 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. Information signs of a public utility regarding its poles, lines, pipes, or facilities; and
- c. Awning, projecting, and suspended signs that meet the requirements of this Ordinance and approval of City Council.

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**ARTICLE 8: SUPPLEMENTAL REGULATIONS**

**Section 8.01 Home Occupations**

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

1. One unlit nameplate of not more than two square foot in area attached flat against the building located on local or collector streets. The area may be increased to four square feet when attached flat against a building located on arterial streets.
2. Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
3. No more than 50 percent of the home or an accessory building or structure shall be used for the home occupation.
4. No more than one employee or co-worker other than the resident(s) shall work from that site.
5. No retail sales are permitted from the site other than incidental sales related to services provided.
6. No exterior storage (excluding storage within accessory buildings or structures) shall be permitted.
7. Additional off-street parking may be required for the business.
8. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
9. All businesses related to Family Child Care Home I and Family Child Care Home II shall be licensed in accordance with Neb. Rev. Stat. §71-1902 (R.R.S. 1997).

**Section 8.02 Wireless Communication Towers**

1. Intent: Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate broadcast towers, telecommunications facilities and antennas in the City in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. It is the intent of the City Council to regulate telecommunication facilities, towers and antennas in the City to protect residential areas and land uses from the potential adverse impacts caused by the of installation of towers and antennas through careful design, siting, and camouflaging; to promote and encourage shared use/collocation of towers and other antenna support structures rather than allow the construction of additional single use towers; to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound; and to ensure that towers and antennas are compatible with surrounding land uses.
2. Definitions: All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

ANTENNA shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.

ANTENNA SUPPORT STRUCTURE shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.

APPLICANT shall mean any person that applies for a Tower Development Permit.

APPLICATION shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the City submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the City concerning such request.

CONFORMING COMMERCIAL EARTH STATION shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.

ENGINEER shall mean any engineer qualified and licensed by any state or territory of the United States of America.

**OWNER** shall mean any person with a fee simple title or a leasehold exceeding 10 years in duration to any tract of land within the zoning jurisdiction of the City who desires to develop, construct, modify, or operate a tower upon such tract of land.

**PERSON** shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

**SATELLITE DISH ANTENNA** shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.

**STEALTH** shall mean any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.

**TELECOMMUNICATIONS FACILITIES** shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

1. Any Conforming Commercial Earth Station antenna six feet or less in diameter.
2. Any earth station antenna or satellite dish antenna three feet or less in diameter.

**TOWER** shall mean a self-supporting lattice, guyed, or monopole structure, which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.

**TOWER DEVELOPMENT PERMIT** shall mean a conditional use permit issued by the City upon approval by the City Council of an application to develop a tower within the zoning jurisdiction of the City; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permits duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.

**TOWER OWNER** shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

1. Location of Towers and Construction Standards
  - a. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.
  - b. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Tower Development Permit by the City Council and issuance of the permit by the City. Applicants shall submit their application for a Tower Development Permit to the City Clerk's Office and shall pay a filing fee.
  - c. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the City after the effective date of this Ordinance shall conform to the Building Codes and all other construction standards set forth by City, County, federal, and state laws and applicable American National Standards Institute (ANSI) standards. Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed in the office of the City Clerk.
2. Application to Develop a Tower: Prior to commencement of development or construction of a tower, an application shall be submitted to the City Clerk for a Tower Development Permit and shall include the following:



- a. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
  - b. The legal description and address of the tract of land on which the tower is to be located.
  - c. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one mile radius of the proposed tower, including publicly and privately owned towers and structures.
  - d. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
  - e. Written technical evidence from an engineer that the proposed tower will meet applicable Building Codes, and all other applicable construction standards set forth by the City Council and federal and state and ANSI standards.
  - f. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and/or zoned property and nearest roadway, street or highway.
  - g. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
  - h. A performance bond in the amount of \$50,000 dollars for the expenses of removal and disposal of the tower.
3. Tower Development Permit: Procedure: After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following all Statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the City Council. Upon the completion of the Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the City Council, following all Statutory requirements for publication and notice, to consider such application and the recommendation of the City Planning Commission. Notice, for each Public Hearing, shall be made at least one time and at least 10 days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall conform to Section 6.03 of this Ordinance. The Planning Commission and City Council may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and/or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.
4. Setbacks and Separation or Buffer Requirements
- a. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
  - b. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.
  - c. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of 100 percent of the height of the tower and provided such districts provide for such use.
  - d. Towers must meet the following minimum separation requirements from other towers:
    - i. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
    - ii. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.
5. Structural Standards for Towers Adopted: The *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any

amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Article of the Zoning Regulation.

6. **Illumination and Security Fences**
  - a. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses/zoned properties within a distance of 300 percent of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.
  - b. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will prevent, to the extent practical, unauthorized climbing of said structure.
7. **Exterior Finish:** Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Planning Commission and City Council as part of the application approval process. All towers which must be approved as a conditional use shall be stealth design unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.
8. **Landscaping:** All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the City.
9. **Maintenance, Repair or Modification of Existing Towers:** All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the City Council, an exemption from compliance as a condition of the Tower Development Permit.
10. **Inspections:** The City reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the City's Building Codes and any other construction standards set forth by the City, federal, and state law or applicable ANSI standards. Inspections shall be made by either an employee of the City Clerk's Office, Zoning Administrator, or a duly appointed independent representative of the City.
11. **Maintenance:** The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.
12. **Abandonment:** If any tower shall cease to be used for a period of one year, the Clerk's Office shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and City of Hartington codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.
13. **Satellite Dish Antennas, Regulation:** Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Hartington only upon compliance with the following criteria:
  - a. In residentially zoned districts, satellite dish antennas may not exceed a diameter of 10 feet.
  - b. Single family residences may not have more than one satellite dish antenna over three feet in diameter.
  - c. Multiple family residences with 10 or less dwelling units may have no more than one satellite dish antenna over three feet in diameter. Multiple family residences with more than 10 dwelling units may have no more than two satellite dish antennas over three feet in diameter.
  - d. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.

- e. All satellite dish antennas installed within the zoning jurisdiction of Hartington, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

### **Section 8.03 Small Wind Energy Systems**

#### **8.03.01 Purpose**

It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

#### **8.03.02 Definitions**

The following are defined for the specific use of this section.

**Small Wind Energy System** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

**Tower Height** shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

#### **8.03.03 Requirements**

Small wind energy systems shall be permitted as an Accessory Use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met:

##### **A. Tower Height**

1. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
2. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.

##### **B. Setbacks**

1. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.

##### **C. Noise**

1. Small wind energy systems shall not exceed 60 dBA, as measured at the closet neighboring inhabited dwelling unit.
2. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.

##### **D. Approved Wind Turbines**

1. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.

E. Compliance with Building and Zoning Codes

1. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
2. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska and certified by a licensed professional engineer shall also be submitted.
3. The manufacturer frequently supplies this analysis.
4. Wet stamps shall not be required.

F. Compliance with FAA Regulations

1. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

G. Compliance with National Electrical Code

1. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
2. The manufacturer frequently supplies this analysis.

H. Utility Notification

1. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
2. Off-grid systems shall be exempt from this requirement.

I. Abandonment

If any tower shall cease to be used for a period of one year, the Zoning Office shall notify the tower owner and property owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower had been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the property owner shall have 75 days thereafter to coordinate with the tower owner for the dismantling and relocation of the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee. The public nuisance will be removed by the City with all associated costs charged to the Owner of said real estate.

**8.03.04 Setbacks**

All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Non Commercial WECS	Meteorological Towers
Property Lines	One times the total height	One times the tower height.
Neighboring Dwelling Units*		One times the tower height.
Road Rights-of-Way**	One times the tower height.	One times the tower height.
Other Rights-of-Way	One times the tower height.	One times the tower height.
Wildlife Management Areas and State Recreational Areas	NA	600 feet
Wetlands, USFW Types III, IV, and V	NA	600 feet
Other structures adjacent to the applicant's sites	NA	One times the tower height.
Other existing WECS not owned by the applicant.	NA	
River Bluffs		

\* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

\*\* The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-Way is known.

**Section 8.04 Commercial/Utility Grade Wind Energy Conversion Systems**

**8.04.01 Purpose**

It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy conversion systems within the City of Hartington.

**8.04.02 Definitions**

The following are defined for the specific use of this section.

**Aggregate Project** shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

**Commercial WECS** shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.

**Hub Height** shall mean the distance from ground level as measured to the centerline of the rotor.

**Fall Zone** shall mean the area, defined as the furthest distance from the tower base, in which a guyed or tubular tower will collapse in the event of a structural failure. This area may be less than the total height of the structure.

**Feeder Line** shall mean any power line that carries electrical power from one or more wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.

**Meteorological Tower** shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to sighting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, or other applications to monitor weather conditions.

**Property Line** shall mean the boundary line of the area over which the entity applying for a Wind Energy Conversion System permit has legal control for the purpose of installing, maintaining and operating a Wind Energy Conversion System.

**Public Conservation lands** shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

**Rotor Diameter** shall mean the diameter of the circle described by the moving rotor blades.

**Small Wind Energy System** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

**Substations** shall mean any electrical facility to convert electricity produced by wind turbines to a higher voltage for interconnection with high voltage transmission lines.

**Total Height** shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

**Tower** shall mean the vertical structures, including the foundation, that support the electrical generator, rotor blades, or meteorological equipment.

**Tower Height** shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.

**Transmission Line** shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

**Wind Energy Conversion System** shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

**Wind Turbines** shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

**8.04.03 Requirements**

The following requirements and information shall be met and supplied:

- A. The name(s) of project applicant.
- B. The name of the project owner.
- C. The legal description and address of the project.
- D. A description of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
- E. Site layout, including the location of property lines, wind turbines, feeder lines, and all related accessory structures. This site layout shall include distances and be drawn to scale.
- F. Certification by an Engineer competent in disciplines of WEC's.
- G. Documentation of land ownership or legal control of the property.
- H. The latitude and longitude of individual wind turbines; included with this shall be an area or zone in close proximity that meets all setbacks; where actual WEC will be considered.
- I. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed Wind Energy Conversion System not owned by the applicant.
- J. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed Wind Energy Conversion System.
- K. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met
- L. The applicant shall supply the emergency management agency and/or fire departments with a basic emergency response plan.
- M. FAA and FCC permit, if necessary. Applicant shall submit permit or evidence that the permit has been filed with the appropriate agency.
- N. Evidence that there will be no inference with any commercial and/or public safety communication towers.
- O. Decommissioning Plan as required by this regulation.

**8.04.04 Aggregated Projects**

- A. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
- B. Permits may be issued and recorded separately.

**8.04.05 Setbacks**

All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines	150 feet from property lines; however, the setback may be less when two adjoining property owners are within the aggregate project.	One times the tower height.
Neighboring Dwelling Units*	1,000 feet	One times the tower height.
Road Rights-of-Way**	One-half the rotor diameter.	One times the tower height.
Other Rights-of-Way	NA	NA
Wildlife Management Areas and State Recreational Areas	600 feet	600 feet
Wetlands, USFW Types III, IV, and V	600 feet	600 feet
Other structures and cemeteries adjacent to the applicant's sites	One-half the rotor diameter.	One times the tower height.
Other existing WECS not owned by the applicant.	NA	NA
River Bluffs	One-half the rotor diameter.	NA

\* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

\*\* The setback shall be measured from any future Rights-of-Way if a planned change or expanded Right-of-Way is known.

**8.04.06 Special Safety and Design Standards**

All towers shall adhere to the following safety and design standards:

- A. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
- B. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
- C. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
- D. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
- E. Color and finish:  
All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.



F. Lighting:

Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.

G. Other signage:

All other signage shall comply with the sign regulations found in these regulations.

H. Feeder Lines:

All communications and feeder lines associated with the project distribution system installed as part of a WECS shall be buried, where physically feasible. Where obstacles to the buried lines create a need to go above ground, these lines may be placed above ground only to miss the obstacle. All distribution and/or transmission lines outside of the project distribution system may be above ground.

I. Waste Disposal:

Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

J. Discontinuation and Decommissioning:

A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four feet below ground level within 180 days of the discontinuation of use. The 180 days may be extended if proof of weather delays is provided.

Each Commercial/Utility WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.

K. Noise:

No Commercial/Utility WECS shall exceed 60 dBA at the nearest structure or use occupied by humans.

L. Interference:

The applicant shall minimize or mitigate interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the city for permits.

M. Roads:

Applicants shall:

- a. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
- b. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road.
- c. Be responsible for restoring the road(s) and bridges to preconstruction conditions.

N. Drainage System:

The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

O. Abandonment

If any tower shall cease to be used for a period of one year, the Zoning Office shall notify the tower owner and property owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower had been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the property owner shall have 75 days thereafter to coordinate with the tower owner for the dismantling and relocation of the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee. The public nuisance will be removed by the city with all associated costs charged to the Owner of said real estate.

**Section 8.05 Fences**

1. No fence shall be constructed within the zoning jurisdiction of the City of Hartington unless it is constructed in conformance with the following requirements or without a zoning permit:
2. Height Limitations: The height limitation for fences shall be 72 inches above ground level except as provided herein.
  - a. No fence shall be constructed within a required front yard of any lot, except as may be otherwise provided herein.
  - b. All fences around Junk Yards, Salvage Yards shall be a minimum of eight feet in height.
  - c. The height of a fence shall be determined by the vertical distance measured from the established grade level at the nearest sidewalk, top of curb, or other public right-of-way to the top of the highest part of the fence. Earthen berms, whether manmade or not, terraces, and retaining walls that elevate the fence shall be considered a part of the fence, and shall be included in the height of the fence. It is not intended that any structure other than a fence is permitted on any part of a lot or premises by this section, and all other structures shall comply with the provisions of this ordinance.
  - d. Where it is demonstrated that for security purposes the perimeter fencing around a factory or building located in an area zoned as an Industrial District must be higher than six feet in height, such fence may be approved through a Conditional Use Permit or otherwise prescribed herein.
  - e. 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 in height.
  - f. 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 in height.
3. Design Criteria/Location
  - a. Fences located within a front of a residential lot shall not exceed 48 inches in height and 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.

- b. No fence or vegetation shall be situated or constructed in such a way as to obstruct vehicular traffic or otherwise create a traffic safety hazard. No fence or vegetation shall be situated or constructed within the required sight triangle.
  - c. The use of barbed wire in the construction of any fence is prohibited except:
    - i. Perimeter security fencing of buildings constructed in a General Commercial or Industrial District. The plans and specifications for any such fencing must be approved by the City before commencement of construction.
    - ii. Farm fencing constructed for agricultural purposes on parcels of land in the Agriculture District.
  - d. All supporting posts for fence construction shall meet the height requirement and be set in concrete except for agricultural fencing in the Transitional Agriculture District.
  - e. All fences shall be maintained in good repair.
  - f. All fences shall be located inside the boundaries of the property upon which constructed except where two adjacent property owners, pursuant to written agreement filed with the City, agree to build one fence on the common lot line of adjacent side yards or back yards.
4. Electric Fences: No electric fence shall be constructed or maintained within the City of Hartington or within its extraterritorial zoning jurisdiction except in the Agriculture District, when the Agriculture district borders a residential lot electric fencing shall not be used along that bordering lot line
  5. Facing: The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two 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.
  6. Fences in existence as of the date of adoption of this Ordinance: Any existing fence which was in conformity with the provisions of any previous ordinance and which was in place as of the date of adoption of this ordinance may remain without change, notwithstanding same may be in conflict with one or more provisions of this ordinance. However, any replacement or change of said existing fence or addition of a new fence shall meet the requirements of this ordinance.

**Section 8.06 Performance Standards for Industrial Uses**

1. Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. 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 storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.
2. 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 Hartington.
3. 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. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.
4. Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
5. Air Contaminants:
  - a. 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 four minute period in each one-half hour. Light colored contaminants of such a capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted
  - b. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.

- c. 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.
- d. 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 odor as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Ordinance.
- e. Gasses: The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million, carbon monoxide shall not exceed five parts per million. All measurements shall be taken at the zoning lot line.
- f. 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 thousandths (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.
- g. 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 degrees Fahrenheit.

**Section 8.07 Self Storage Units / Convenience Storage Units**

1. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
2. All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt, rock, or asphaltic concrete. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.
3. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
4. No storage may open into the front yards.
5. Facilities must maintain landscape buffer yards of 50 feet adjacent to any public Right-of-Way and 20 feet adjacent to other property lines, unless greater setbacks are required, a total of 35 percent of all buffers shall be landscaped.
6. All storage facilities must be constructed of standard construction materials for buildings, trailers of any type are not allowed to be used as storage on any lot for a period of greater than 12 months.

**Section 8.08 Auto Wrecking Yards, Junk Yards Salvage Yards and Scrap Processing Yards**

1. The use shall be located on a tract of land at least 300 hundred feet from a residential district.
2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded by a solid fence or wall at least eight feet high.
3. The fence or wall shall be uniform in height, texture, and color, and shall be so maintained by the proprietor as to ensure maximum safety to the public, obscure the junk from normal view of the neighborhood.
4. The fence or wall shall be installed in such a manner as to retain all scrap, junk or other material within the yard. No scrap, junk or other salvaged materials may be piled or stacked so to exceed the height of the enclosing fence or wall.
5. No junk shall be loaded, unloaded or otherwise placed either temporarily or permanently outside the enclosed building, fence or wall, or within the public right-of-way.
6. Burning of paper, trash, junk or other materials shall be prohibited.

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**ARTICLE 9: BOARD OF ADJUSTMENT**

**Section 9.01 Members, Terms and Meetings**

Pursuant to Neb. Rev. Stat. §19-908 (R.R.S. 1997): The Board of Adjustment shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. The first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than two hundred persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside of the corporate boundaries of the City but within its extraterritorial zoning jurisdiction. The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to sections 19-901 to 19-914. Meetings of the board shall be held at the call of the chairperson and at such other times as the Board of Adjustment may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be a public record.

**Section 9.02 Appeals to Board of Adjustment, Record of Appeal, Hearings and Stays**

As provided in Neb. Rev. Stat. §19-909 (R.R.S. 1997): Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Adjustment, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of the appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

**Section 9.03 Powers and Jurisdiction on Appeal**

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures; and
2. To hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board of Adjustment is authorized by this Ordinance to pass; and
3. To grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

No such variance shall be authorized by the Board of Adjustment unless it finds that:

1. The strict application of the Ordinance would produce undue hardship; and
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
4. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

In exercising the above mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

**Section 9.04 Appeals to District Court**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Neb. Rev. Stat. §19-912, (R.R.S.1997).

**ARTICLE 10: ADMINISTRATION**

*AMENDED ARTICLE 10 (Section 10.01 – 10.12) April 28, 2014 – ORDINANCE #832*

**Section 10.01 Zoning Administrator**

The provisions of the ordinance and any application or proposal for amendment, supplement, change, or modification of any of the regulations, restrictions and boundaries shall be administered, investigated and enforced by a designated zoning administrator appointed by the City Council, who shall have the power to make inspections of building and premises necessary to carry out his duties in the enforcement of this ordinance. The Zoning Administrator shall report to the City Planning Commission and to the City Council the Administrator's investigation and recommendation regarding any amendment, supplement, change or modification of the regulations, restrictions, and boundaries established by this ordinance.

*AMENDED ARTICLE 10 (Section 10.01 – 10.12) April 28, 2014 – ORDINANCE #832*

**Section 10.02 Building Permits**

Prior to the erection, construction, reconstruction, alteration, repair or conversion of any building, structure, an application shall be submitted to the Zoning Administrator along with the required fee as established by the City Council to cover investigation and other expenses incidental to the application. The applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, constructed reconstructed, altered, repaired and converted, and of any building already on the property. Applicant shall also state the existing and intended use of all such buildings and supply such other information as may be required by the Zoning Administrator. The Zoning Administrator shall review the application and make a recommendation to the City Council to approve or deny the application. If the application is in conformity with the provisions of this Ordinance, and is approved by the City Council, the Zoning Administrator shall issue a permit. If the application is denied, the Zoning Administrator shall state, in writing, the reason for the denial and shall immediately mail notice of such denial to the applicant at the address indicated upon the application. The issuance of a permit shall, in no case, be construed as waiving any provisions of this Ordinance. The City Council shall grant or deny the permit within a reasonable time from the date the application is submitted. The permit shall become void and, before work can be resumed, a new permit shall be obtained in the same manner and form as an original permit, if the project for which it has been issued:

1. shall not have begun within six (6) months of the issue date,
2. is discontinued for a period of six (6) months, or
3. has not been completed within (2) years of the issue date.

If an amendment to a building permit is requested within twelve (12) months of being issued an additional fee will be required as established by the City Council to cover expenses. An amendment request subsequent to twelve (12) months of a building permit being issued requires an application for a new building permit.

*AMENDED June 13, 2016 (Section 10.02) – ORDINANCE #841*

**Section 10.03 Permit Card**

Upon the issuance of a building permit, the Zoning Administrator shall furnish to the applicant a permit card which shall be a distinctive color and shall contain the location of the building and the date of issuance. The card shall be prominently displayed on the principal frontage of the building site close to the building or structure and shall so remain until the final inspection has been made.

**Section 10.04 Duplicate to County Assessor**

Whenever a building permit is issued for the erection, alteration, or repair of any building within the City's jurisdiction and the improvement is two thousand five hundred dollars (\$2,500) or more, a duplicate of that permit shall be issued to the County Assessor.

NE.REV.STAT. 18-1743

AMENDED ARTICLE 10 (Section 10.01 – 10.12) April 28, 2014 – ORDINANCE #832

**Section 10.05 Penalties**

A violation of any section of this Ordinance is hereby declared to be a misdemeanor and is punishable by fine not exceeding \$100 for any one offense, recoverable with the costs, or by imprisonment in the county jail for a term not to exceed thirty (30) days. Each day such violation continues after notice of violation is given to the offender may be considered a separate offense.

NE.REV.STAT. 19-913

AMENDED ARTICLE 10 (Section 10.01 – 10.12) April 28, 2014 – ORDINANCE #832

**Section 10.06 Remedies**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of any sections of this Ordinance, the City Council, in addition to the other remedies, may institute any appropriate action or proceedings to prevent such an unlawful erection construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

NE.REV.STAT. 19-913

AMENDED ARTICLE 10 (Section 10.01 – 10.12) April 28, 2014 – ORDINANCE #832

**Section 10.07 Amendments**

The regulations, restrictions, and boundaries authorized to be created, supplemented, changed, modified, or repealed. The City Council shall refer any such regulation, restriction, or boundary to the City Planning Commission before taking definite action on any contemplated amendment or repeal. No such regulation, restriction, or boundary shall become effective until after a public hearing has been held by both the City Planning Commission and the City Council in relation to the same. The City Council shall have an opportunity to be heard.

Correction Made  
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NE.REV.STAT.19-904

AMENDED ARTICLE 10 (Section 10.01 – 10.12) April 28, 2014 – ORDINANCE #832

**Section 10.08 Notice**

Notice of the time and place of any hearing to amend, supplement, change, modify or repeal this ordinance shall be given by publication thereof in a paper of general circulation in such municipality at least one time 10 days prior to such hearing. In addition to the publication of the notice herein prescribed, a notice shall be posted in a conspicuous place on or near the property in which the action is pending. Such notice shall not be less than 18 inches in height and 24 inches in width, with a white or yellow background and black letters not less than 1 ½ inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street nearest the same and shall be so posted at least 10 days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor.



If the record title owners of any lots included in such proposed change be non-residents of the municipality, then a written notice of such hearing shall be mailed by certified mail to them, addressed to their last-known addresses at least 10 days prior to such hearing. At the option of the legislative body of the municipality, in place of the posted notice provided above, the owners or occupants of the real estate to be zoned or re-zoned and all real estate located within 300 feet of the real estate to be zoned or re-zoned may be personally served with a written notice thereof at least 10 days prior to the date of the hearing, if they can be served with such notice within the county where such real estate is located. Where such notice cannot be served personally upon such owners or occupants in the county where such real estate is located, a written notice of such hearing shall be mailed to such owners or occupants addressed to their last-known addresses at least 10 days prior to such hearing.

The provisions of this section in reference to notice shall not apply (1) in the event a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different types of zoning districts are proposed, whether or not such additional or different districts are made applicable to areas or parts of areas, already within a zoning district of the municipality. However, the requirements of notice of time and place of such hearing by publication in a paper of general circulation in such municipality at least 1 time 10 days prior to such hearing shall be applicable.

NE.REV.STAT 19-905

*AMENDED ARTICLE 10 (Section 10.01 – 10.12) April 28, 2014 – ORDINANCE #832*

#### **Section 10.09 Notice to Board of Education**

Written notice of the meeting of the City Planning Commission shall be given to the Board of Education of the school district in which the real estate to be affected by any amendment of this zoning ordinance or approval of the plating or replating of any development of real estate is to be considered. A copy of the proposal shall be submitted to the Board of Education at least ten (10) days prior to such meeting. Such Board shall recommend in writing to the City Planning Commission that such amendment be approved or denied in whole or in part or with such changes as may be desirable. This recommendation shall be advisory only, and the failure of the Board of Education to make written recommendations within ten (10) days shall be construed as approval of the proposal as submitted.

NE.REV.STAT 19-923

*AMENDED ARTICLE 10 (Section 10.01 – 10.12) April 28, 2014 – ORDINANCE #832*

#### **Section 10.10 Planning Commission Review**

No amendment, supplement, change, or modification of the ordinance, including the boundaries of any zoning district, shall be made by the City Council without first being reviewed by the City Planning Commission. The City Planning Commission shall submit in writing its recommendations on each amendment, supplement, change, or modification to the City Council within 45 days after receipt thereof. Said recommendation shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of each amendment, supplement, change, or modification on the comprehensive plan. Said recommendation shall be of an advisory nature only.

*AMENDED ARTICLE 10 (Section 10.01 – 10.12) April 28, 2014 – ORDINANCE #832*

#### **Section 10.11 Application and fees**

Any person or persons seeking an amendment, supplement, change, or modification of any regulation, restrictions, or boundaries of the zoning ordinance, shall submit a written application to the Zoning Administrator and deposit a fee as established by the City Council to cover investigation, legal notices or other expenses incidental to the determination of such matter.

*AMENDED ARTICLE 10 (Section 10.01 – 10.12) April 28, 2014 – ORDINANCE #832*

**Section 10.12 Protest**

In case of a protest against any amendment, supplement, change, or modification signed by the owners of 20% or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending 300 feet therefrom, and of those directly opposite thereto extending 300 feet from the street frontage of such opposite lots, and such change is not in accordance with the comprehensive development plan, such amendment, supplement, change, or modification shall not become effective except by a favorable vote of  $\frac{3}{4}$  of all the members of the City Council.

NE.REV.STAT. 19-905

*AMENDED ARTICLE 10 (Section 10.01 – 10.12) April 28, 2014 – ORDINANCE #832*

# SUBDIVISION ORDINANCE OF HARTINGTON, NEBRASKA

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## **Introduction**

Subdividing affects the value of land, the return to the land investor and mortgage holder, the cost to the local government, and the future well-being of the home owner and community. The street pattern, size of lots, and utilities installed become permanent features of the community. If mistakes are made in subdividing, it may mean continual excessive maintenance to the city as well as a great financial loss to the developer.

The Planning Commission reviews each plat before submission to the City Council. Each member should carefully observe each proposed plat to be sure that adequate provision is made for areas of public concern. Reference should always be given to the Comprehensive Plan so members will be alert to preserve those natural features which will enhance the community's appearance.

This Subdivision Ordinance provides for: 1) the procedure to be followed by the Planning Commission and City Council when approving plats, 2) requirements for data and information to be submitted with the plat, 3) design standards, and 4) improvements to be constructed and installed prior to final approval of the plat.

## **SECTION 1. SHORT TITLE**

This ordinance shall be known and cited as the Subdivision Ordinance of Hartington, Nebraska.

## **SECTION 2. PURPOSE AND INTENT**

It is the intent and purpose of this ordinance to regulate the development of land to ensure functional street layouts; to provide lots which are in conformity with the highest and best use of land; to provide for adequate open spaces for traffic, schools, recreation and air; to ensure the installation of adequate utilities and streets, and to provide for other features of the Comprehensive Plan – all to the end that the development of land may proceed in an orderly manner, and that good liveable neighborhoods may be created and excessive City maintenance expense avoided.

### **SECTION 3. APPLICATION AND JURISDICTION**

Every owner of any lot, tract or parcel of land within the corporate limits of Hartington or within one (1) mile thereof as shown on the official map in the office of the City Clerk, who may hereafter subdivide the same into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development, shall submit a plat in accordance with the requirements of this ordinance.

### **SECTION 4. DEFINITIONS**

For the purpose of this ordinance, certain terms used herein are defined as follows:

Alley: A public right-of-way which is used primarily for vehicular access to the back or side of properties otherwise abutting on a street.

Block: A tract or parcel of land bounded by public streets or lands, streams, railroads, unplatted lands or combination thereof.

Building Line: A line established on a plat as a restrictive covenant beyond which no building may be placed. The building lines need not correspond to the front, side, or rear yard requirement established in the Zoning Ordinance, and where they do not, the most restrictive requirement shall control.

City Council: City Council of Hartington, Nebraska.

Comprehensive Plan: A general plan for the improvement and development of Hartington, Nebraska as adopted by the City Council.

Cul-de-sac: A street having one end connecting with a public right-of-way and being terminated at its other end by a vehicular turn-around.

Easement: A right to use a parcel of land, granted to the general public, utility or corporation by the property owner.

Final Plat. Any plat of any lot, tract or parcel of land which meets the requirements of this ordinance and is in form to be recorded by the County Clerk and Register of Deeds.

Frontage Street: Minor streets which are parallel to and adjacent to major streets or highways and provide access to the abutting properties and protection from through traffic.

Lot: A portion of a subdivision or other parcel of platted land, intended as a unit for transfer of ownership or for development.

Lot of Record: A tract of land described as an integral portion of a subdivision plat which is properly recorded.

Planning Commission: The Planning Commission of Hartington, Nebraska.

Preliminary Plat: A tentative plan of a proposed subdivision of land for review and study.

Street: A right-of-way, dedicated to public use, which affords a primary means of access. Major highways, collector streets, and residential streets are streets so designated by the Transportation Plan in Hartington's Comprehensive Plan.

Street Pavement: The wearing or exposed surface of the street right-of-way used by vehicular traffic. The pavement width is measured from the back of the curb on one side to the back of the curb on the other side.

Street Right-of-way: The area measured between property lines, dedicated to and accepted for public use and providing access to abutting properties.

Subdivider: A natural person, firm, partnership, association, or any other group who submits a proposed subdivision for approval.

Subdivision: The division of a lot, tract or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, for transfer of ownership or building development.

Water Course: A natural or man-made depression in which a current of surface run-off water flows following precipitation.

## **SECTION 5. SUBMISSION AND APPROVAL PROCEDURE**

- 1) Whenever any subdivision of land is proposed to be made, the owner of such subdivision shall apply for approval of the proposed subdivision in accordance with the following procedures.
- 2) Optional Preliminary Plat.

- a) The owner shall submit ten (10) copies of the preliminary plat containing the information specified herein to the City Clerk no later than ten (10) days prior to a meeting of the Planning Commission. The preliminary plat procedure is optional and shall not be required of any proposed plat.
- b) The City Clerk shall immediately transmit nine (9) copies of the preliminary plat to the Planning Commission. If professional planning or engineering assistance is used, one copy shall immediately be transmitted for his/her evaluation and recommendation to the Commission.
- c) The Planning Commission shall examine the plat as to its compliance with this ordinance and the Comprehensive Plan of the City and shall have thirty (30) days in which to submit a recommendation to the Mayor and City Council for their consideration. In case of modification or disapproval, the Planning Commission shall give its reasons.
- d) The Mayor and City Council, upon receiving the Commission's recommendation, shall approve, conditionally approve or disapprove the preliminary plat. Approval or conditional approval of the preliminary plat by the City Council shall constitute approval to proceed with the preparation of the final plat but shall not be deemed approval of the subdivision.

3) Final Plat.

- a) Final plat approval is a two-step mandatory procedure required for all plats:
  - The final plat must be reviewed and a recommendation obtained by the Planning Commission; and
  - The final plat must be approved or disapproved by the City Council.
- b) The owner shall submit ten (10) copies of the final plat prepared by a registered Nebraska engineer and/or surveyor containing to the information specified herein to the City Clerk no later than ten (10) days prior to a meeting of the Planning Commission. One (1) copy shall be the original drawn on permanent reproducible material such as mylar or tracing cloth. The Planning Commission shall review the plat a public hearing and make a recommendation to the City Council.
- c) The Mayor and City Council shall receive the recommendation of the Planning Commission at a public hearing and shall approve the final plat by resolution or, if disapproved, set forth its reasons upon the minutes of the meeting.
- d) Notice of said public hearings shall be published at least once in the official newspaper of the city at least ten days before the public hearings. Said notice shall contain the location of the land, the name of the proposed subdivision and the date of the public hearing.
- e) Upon approval of the final plat, a resolution of approval signed by the Mayor and attested by the City Clerk shall be fixed to the original of the final plat and the owner shall cause the plat to be to be recorded with the County Clerk and Register of Deeds, along with any certifications and instruments as may be required by law and file satisfactory evidence of such recording with the City Clerk.

4) Submission to the School Board.

At least 10 days prior to any review of the preliminary or final plats by the Planning Commission, a copy of each preliminary or final plat shall be submitted to the School Board of each district in which the real estate is located for their consideration and recommendations. The board shall recommend in writing to the Planning Commission that such plat be approved or disapproved in whole or in part or with such changes as may be desirable. This recommendation shall be advisory, and failure of the board to make written recommendation shall be construed as an approval of the proposal submitted.

5) Professional Assistance.

The City Council or the Planning Commission may request such professional assistance as it deems necessary to properly evaluate the plats submitted.

## SECTION 6. PRELIMINARY PLAT REQUIREMENTS

Preliminary plats shall contain the following information:

- A) A small scale key or vicinity map adequately covering the area within a half mile radius of the subdivision, showing the relation of the plat to major streets, parks, schools, and surrounding major commercial, industrial developments and the boundary of the drainage area affecting the plat.
- B) A preliminary plat of the subdivision drawn to the scale of one hundred feet (100') to one inch (1"), said preliminary plat to show:
- a) Legal description, acreage and proposed name of subdivision.
  - b) Name and address of the owner.
  - c) Name and address of the engineer who prepared the plat, and date thereof.
  - d) North point and graphic scale.
  - e) Location of existing structures.
  - f) Location of existing or platted streets within the proposed subdivision and adjacent thereto.
  - g) Layout of proposed blocks (if used) and lots including the approximate dimension of each, and the lot and block number in numerical order.
  - ADD to* h) Location, width and other dimensions of the proposed streets, alleys, roads, utility and other easements, parks, and other open spaces or reserved areas.
  - i) Proposed names for all streets.
  - j) Proposed building lines, if different than the requirements of the Zoning Ordinance.

## SECTION 7. FINAL PLAT REQUIREMENTS

- A) The plat shall be drawn to the scale of one hundred feet (100') to one inch (in).
- B) The final plat shall contain the following:

- a) Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one foot (1') in three thousand (3000') feet.
- b) Accurate references to known or permanent monuments.
- c) Accurate locations of all existing and recorded streets intersecting the boundaries of the tract.
- d) Accurate legal description of the boundary.
- e) Street names.
- f) Complete curve notes for all curves included in the plat.
- g) Street lines with accurate dimensions in feet and hundredths of feet with angles to street, alley and lot lines.
- h) Lot numbers and exact dimensions.
- i) Block numbers.
- j) Building lines if different than the requirements of the Zoning Ordinance.
- k) Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.
- l) Location, type, material and size of all markers.
- m) Name of the subdivision.
- n) North point, scale and date.
- o) Certificate signed by a registered engineer or land surveyor, which contains the legal description of the land included in the plat and all necessary explanations of dimensions and references to monuments to supplement the figures on the plat itself. Said certificate shall state that a ground survey has been made and that monuments have been placed as shown on the plat.
- p) Notarized certificate signed and acknowledged by all parties having any titled interest in or lien upon the land subdivided, consenting to the plat including dedication to the public for public use of all street, alley and public ways and dedication of parks or other public grounds or as is thereon dedicated to charitable, religious, or educational purposes, if any, and granting easements.
- q) Resolution for the approval of the City Council to be signed by the Mayor and attested by the City Clerk.
- r) One copy of any private restrictions or covenants affecting the subdivision or any part thereof.

## **SECTION 8. DESIGN STANDARDS**

### **1) General.**

Land within the proposed subdivision which the City Council finds to be unsuitable for subdividing due to flooding or bad drainage or other topographic features likely to be harmful to the safety, welfare or general health of the future residents of the proposed subdivision, shall not be subdivided until the objectionable features have been eliminated or until adequate safeguards against such hazards are provided.



2) Streets.

- a) The arrangement of major streets shall conform as nearly as possible to the Comprehensive Plan with provisions for the extension of major and collector streets. Streets in the subdivision normally shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provision shall be made for future connections to adjoining unsubdivided tracts.
- b) Minor residential streets shall be so planned as to discourage through traffic. Cul-de-sacs shall normally not be longer than six hundred (600) feet and shall terminate with a turnaround having a street pavement diameter of not less than one (100) feet.
- c) Where a proposed subdivision is adjacent to or contains an existing or proposed major or controlled access thoroughfare, provision shall be made for a frontage street approximately parallel and adjacent to the boundary of such right-of-way, or lots shall back up to the major street and have access only to the minor street.
- d) Half streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations or where it is found to be practical to require the dedication of the other half when adjoining property is subdivided.
- e) Under normal conditions streets shall be laid out so as to intersect as nearly as possible at right angles. More than four (4) approaches to any intersection shall be prohibited.
- f) Street jogs at intersections with centerline offsets of less than one hundred and fifty (150) feet shall be prohibited.
- g) There shall be no private streets platted in any subdivision. Every subdivided lot shall be served from a publicly dedicated street.
- h) Alleys shall be provided in commercial and industrial districts except where other definite and assured provisions are made for service access.
- i) When a subdivision fronts on a State or Federal highway or a major or primary thoroughfare, intersections onto that highway or thoroughfare shall be not less than 1200 feet apart.
- j) Curb cuts shall be prohibited within fifty (50) feet of intersecting street curb lines.
- k) The minimum right-of-way widths, pavement widths (back to back of curb) and grades for interior streets and alleys included in any subdivision shall not be less than the minimum dimensions or more than the maximum grades for each classification as follows:

Type	Minimum R.O.W. (ft)	Minimum Pavement Width (ft)	Maximum Grade	Minimum Sight Distance on Vertical Curves (ft)	Minimum Horizontal Radii on Curves (ft)	Minimum Pavement thickness (inches)
Thoroughfare (5)	80-100 (1)	53 (2)	6%	(4)	(4)	9
Marginal Access Street	30	22	8%	300		7

Collector Street	70 (1)	41 (2)	10%	300	300	8
Residential Street	60	31	10%	300	100	7
Alleys	20	12 Res.				
		20 Com.		None		
Cul-de-sac Street	50	25	10%	200		7
Sidewalks		4 (3)				

- (1) Streets in these classifications shall be designed and graded to the full right-of-way widths stated.
- (2) The developer shall not be responsible for providing pavement wider than 31 feet.
- (3) If the sidewalk is to be a designated trail pavement shall be extended to 8 feet.
- (4) Per NDOR Standards or as directed by the City Engineer.
- (5) All section line roads will be designated as Thoroughfares.

3) Easements.

- a) Easements across lots or centered on rear or side lot lines, shall be provided for utilities, where necessary, and shall be at least twelve (12') feet wide.
- b) Where the subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way of such widths as will be adequate for both water flow and maintenance operations.

4) Blocks.

- a) Except in unusual circumstances, the length of blocks shall be not less than 300 feet and not greater than 1320 feet.
- b) Pedestrian crosswalks, not less than 10 feet wide, shall be required where deemed essential to provide circulation for or access to schools, playgrounds, shopping centers, and other community facilities.

5) Lots.

- a) Lot dimensions and lot area shall conform to the requirements of the Zoning Ordinance. However, in no case shall the width be less than 60 feet, nor less than 100 feet in depth, nor less than 6000 square feet in area when served by a public sewer.
- b) Corner lots for residential use shall have adequate width to permit appropriate building setback from and orientation to both streets.
- c) Each lot shall have satisfactory access to a public street.
- d) Double frontage lots shall be avoided except where they back up to a major street.
- e) Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for off-street service and parking facilities required by the type of use and development contemplated.

- f) Side lot lines shall be substantially at right angles or radial to street lines.
  - g) Setback or building lines may be shown on all lots but shall not be less than the setback required by the Zoning Ordinance.
- 6) Public Sites and Open Spaces.
- a) Where a proposed park, playground, school, or other public use, as shown on the plan, is located in whole or in part in a subdivision, the Planning Commission may require the dedication or reservation for purchase for public use of such area within the subdivision in those cases which the Commission deems such requirements to be reasonable. The cost per acre of the reserved area shall be based upon the appraised raw land value, unless an agreed price per acre has been reached with the Planning Commission at the time the plat is accepted.
  - b) No land under two and one-half (2 ½) acres shall be accepted for public recreational use unless abutting an existing park.

## **SECTION 9. IMPROVEMENTS**

The subdivider shall construct and install the improvements described in this section in accordance with plans, specifications, and data approved by the City Council, and to its satisfaction.

### **1) Monuments.**

The following described monuments shall be installed before the City Council shall approve the plat.

- a) The external boundaries and corners of block shall be monumented by iron rods or pipes not less than two (2) inches in diameter and extending at least thirty (30) inches below grade.
- b) Lot corners, all points of curvature, points of tangency and other points not required to be marked by the preceding paragraph a, shall be monumented by iron rods or pipes not less than one inch in diameter and extending at least twenty-four (24) inches below grade.

### **2) Sewer and Water.**

It shall be required that the owner or developer of the tract to be subdivided install, at his own expense, satisfactory sewer and water lines which are necessary to serve such subdivision. Installation of the above shall be in accordance with the specifications of the City and under the direction and supervision of the City Council.

The cost of providing this engineering service will be the responsibility of the owner and developer of the tract to be subdivided. Sewer and water lines shall have flow elevations as directed by the City.

3) Drainage.

An adequate system for the drainage of all surface water within the area being subdivided, including ditches, pipes, culverts, intersectional drains, drop inlets, bridges, and other structures, shall be constructed by the developer. Such drains shall comply as to size with such requirements, conformable to good engineering practice, as the City Council shall prescribe; provided, that such drains in no event shall be less than twelve (12) inches in diameter. Cross-drains shall be constructed to accommodate all natural water flow, be built on a straight line and grade, be laid on a firm base but not on rock, and be of sufficient length to permit construction of streets and alley to their required width and grades. Surface drainage pipes shall be laid with the spigot end pointed in the direction of the flow, and all ends shall be fitted and matched to provide tight joints and a smooth uniform invert. Such pipes shall be placed at a depth below the road bed that is sufficient to avoid dangerous pressure from impact, and the top, in no event, shall be less than one foot (1') below the surface of the road bed.

The developer must also show what impact the new development will have on the existing drainage system and what they are willing to do to mitigate any potential problems.

4) Sidewalks.

Sidewalks four feet (4') wide shall be provided adjacent to each lot frontage in accordance with City specifications.

5) Grading.

All full width streets located entirely within the boundary of the subdivision, except primary and secondary thoroughfares, and collector streets as noted in Section 8 hereof, shall be graded to a minimum width of nine (9) feet back of both curb lines to within six (6) inches of the grade established by the City of Hartington.

6) Curb and Gutter.

Curb and gutter shall be installed on all roadways in the plat being dedicated for public use and shall be constructed of portland cement concrete in accordance with designs and specifications approved by the City.

7) Surfacing.

All roadways being dedicated for public use shall be surfaced from curb to curb. Surfacing shall be portland cement concrete and shall be constructed in accordance with designs and specifications approved by the City of Hartington.

8) Specifications.

The type of construction, the materials, the methods and standards of subdivision improvements shall be equal to the current specifications of the City for like work. Plans and specifications shall be submitted to the City Council for approval prior to construction and construction shall not be started until the plans and specifications have been approved.

9) Other Improvements.

The City Council, upon recommendation of the Planning Commission, may require the installation of street lights, street signs, and street trees.

It is further provided, however, that after the City Council has approved the final plat for a portion of the area comprised in the tentative plat, the developer may submit for final platting the next portion only if required improvements have been installed or have been contracted for as above provided in the portion comprised in the final plat theretofore approved. Subsequent applications for final platting shall be processed in the same manner.

## **SECTION 10. VARIANCES**

1) Hardship.

Whenever the tract of land proposed to be subdivided is: 1) less than three (3) acres and does not involve any dedication for street purposes; or 2) if it is of such unusual shape or topography; or 3) is affected by surrounding developments or unusual conditions such that the strict application of the requirements contained in these regulations would result in substantial hardships or inequities, the City Council upon recommendation of the Planning Commission may vary or modify such requirements so that the subdivider is allowed to develop his property in a reasonable manner, but so at the same time, the public welfare and interest of the city and surrounding area are protected and the general intent and spirit of this ordinance is preserved.

2) Conditions.

In granting variances, the City Council, upon recommendation of the Planning Commission, may require such conditions as will secure substantially the objective of the standards or requirements so varied.

## **SECTION 11. ENFORCEMENT**

- 1) No plat of any subdivision within the application of these regulations shall be entitled to be filed recorded in the office of the County Clerk and Register of Deeds or have any validity until such plat has been prepared, approved, and acknowledged in the manner prescribed by these regulations.
- 2) It shall be unlawful to sell, trade or otherwise convey any lot or parcel of land as a part of or in conformity with any plan, plat or replat of any subdivision with the application of these regulations unless said plan, plat or replat shall have first been approved as prescribed by these regulations and filed and recorded in the office of the County Clerk and Register of Deeds.
- 3) No permit shall be issued for any structure on a site or tract of land which is not a lot of record at the time of the effective date of this ordinance or which has not been approved or recorded in accordance with the provisions of this ordinance.

## **SECTION 12. AMENDMENTS**

The City Council may amend these regulations from time to time, provided however, that such amendments shall not become effective until a public hearing and a recommendation from the Planning Commission is received and a public hearing by the City Council has been held as required by law.

## **SECTION 13. VALIDITY**

If any section, subsection, sentence, clause, or phrase of this ordinance be declared unconstitutional or void, such decision shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared invalid.

## **SECTION 14. PENALTY**

Any person, firm, co-partnership, association, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine not to exceed one hundred dollars (\$100) or by imprisonment not to exceed six months, or both, at the discretion of the court. The sale of each and every lot sold in violation of this chapter shall be considered a separate violation.

**SECTION 15. CONFLICTING ORDINANCES REPEALED**

All regulations or ordinances or parts of regulations or ordinances in conflict herewith are hereby repealed, except any regulations or ordinances that impose more restrictive regulations than are imposed herein.

**SECTION 16. EFFECTIVE DATE**

This ordinance shall be in effect from and after its adoption and publication as required by law.

