

# PLEASANTON, NEBRASKA

## ZONING REGULATIONS 2002

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# TABLE OF CONTENTS

<b>ARTICLE 1: GENERAL PROVISIONS .....</b>	<b>1</b>
1.1 TITLE .....	1
1.2 JURISDICTION.....	1
1.3 PURPOSE .....	1
<b>ARTICLE 2: APPLICATION OF REGULATIONS.....</b>	<b>3</b>
2.1 GENERAL .....	3
2.2 ZONING AFFECTS EVERY BUILDING AND USE .....	3
2.3 YARD AND LOT REDUCTION PROHIBITED .....	3
2.4 MINIMUM REQUIREMENTS.....	3
2.5 NONCONFORMITIES .....	3
<b>ARTICLE 3: GENERAL DEFINITIONS.....</b>	<b>7</b>
3.1 GENERAL PROVISIONS .....	7
3.2 GENERAL TERMINOLOGY .....	7
3.3 DEFINITION .....	7
<b>ARTICLE 4: ESTABLISHMENT AND DESIGNATION OF DISTRICTS .....</b>	<b>16</b>
4.1 PLANNING COMMISSION RECOMMENDATIONS .....	16
4.2 DISTRICTS CREATED .....	16
4.3 OFFICIAL ZONING MAP .....	16
4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.....	17
<b>ARTICLE 5: ZONING DISTRICTS .....</b>	<b>19</b>
5.1 AGR - AGRICULTURE RESIDENTIAL DISTRICT.....	19
5.2 R-1 RESIDENTIAL SINGLE FAMILY DISTRICT .....	21
5.3 C-1 GENERAL COMMERCIAL DISTRICT .....	23
5.4 C-2 HIGHWAY COMMERCIAL DISTRICT .....	27
5.5 I INDUSTRIAL DISTRICT .....	29
5.6 FLOODPLAIN OVERLAY DISTRICT.....	31
<b>ARTICLE 6: SPECIAL USE PERMIT .....</b>	<b>53</b>
6.1 GENERAL .....	53
6.2 PROCEDURES.....	53
6.3 SALVAGE OR JUNKYARD .....	54
6.4 LANDFILLS AND SANITARY LANDFILLS .....	55
<b>ARTICLE 7: PARKING REGULATIONS.....</b>	<b>57</b>
7.1 GENERAL PROVISIONS .....	57
7.2 OFF-STREET PARKING REQUIREMENTS.....	57
7.3 OFF-STREET LOADING REQUIREMENTS .....	58
<b>ARTICLE 8: ACCESSORY USES AND SUPPLEMENTAL REGULATIONS.....</b>	<b>59</b>

# TABLE OF CONTENTS

8.1	ACCESSORY BUILDING .....	59
8.2	HOME OCCUPATIONS .....	60
8.3	MANUFACTURED HOMES: .....	60
8.4	YARD REGULATIONS: .....	61
8.5	EXCEPTIONS TO HEIGHT REGULATIONS: .....	61
8.6	EXCEPTION TO LOT SIZE REQUIREMENTS: .....	61
8.7	MOBILE HOME PARKS:.....	61
8.8	VISIBILITY AT INTERSECTIONS: .....	64
8.9	FENCES, WALLS, AND HEDGES .....	65
8.10	SIGN REGULATIONS: .....	67
8.11	CARGO CONTAINERS AND PORTABLE STORAGE CONTAINERS .....	68
8.12	LARGE ANIMAL PETS, LIVESTOCK, AND FOWL .....	69
<b>ARTICLE 9: COMMUNICATION TOWER REGULATIONS .....</b>		<b>71</b>
9.1	CONDITIONAL USE PERMIT REQUIREMENT .....	71
9.2	MINIMUM REQUIREMENTS.....	71
9.3	SPECIAL REQUIREMENTS.....	71
9.4	NON-CONFORMING USE .....	72
<b>ARTICLE 10: ENERGY SYSTEM REGULATIONS .....</b>		<b>73</b>
10.1	WIND ENERGY SYSTEMS.....	73
10.2	SOLAR ENERGY SYSTEMS .....	78
<b>ARTICLE 11: BOARD OF ZONING ADJUSTMENT .....</b>		<b>87</b>
11.1	CREATION, MEMBERSHIP .....	87
11.2	MEETINGS .....	87
11.3	INTERPRETATIONS AND VARIANCES .....	87
11.4	PROCEDURES FOR REQUESTING A VARIANCE .....	89
11.5	APPEALS FROM THE BOARD OF ZONING ADJUSTMENT .....	89
<b>ARTICLE 12: ADMINISTRATIVE PROVISIONS, ENFORCEMENT AND FEES .....</b>		<b>90</b>
12.1	ENFORCEMENT .....	90
12.2	BUILDING PERMITS REQUIRED .....	91
12.3	CERTIFICATION OF OCCUPANCY REQUIRED.....	91
12.4	SCHEDULE OF FEES .....	92
<b>ARTICLE 13: AMENDMENT .....</b>		<b>93</b>
13.1	GENERAL .....	93
13.2	SUBMISSION TO PLANNING COMMISSION .....	93
13.3	AMENDMENT CONSIDERATION AND ADOPTION .....	93
13.4	PROTEST .....	94
<b>ARTICLE 14: COMPLAINTS, PENALTIES, REMEDIES .....</b>		<b>95</b>
14.1	COMPLAINTS REGARDING VIOLATIONS .....	95
14.2	PENALTIES .....	95

# TABLE OF CONTENTS

14.3	REMEDIES.....	95
<b>ARTICLE 15: LEGAL STATUS PROVISIONS.....</b>		<b>96</b>
15.1	SEPARABILITY .....	96
15.2	PURPOSE OF CATCH HEADS .....	96
15.3	REPEAL OF CONFLICTING ORDINANCES .....	96
15.4	EFFECT DATE.....	96

# TABLE OF CONTENTS

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OFFICIAL ZONING MAP  
PLANNING JURISDICTION  
Pleasanton, Nebraska

0 400 800 1600  
SCALE IN FEET

LEGEND

- AGR Agricultural Residential District
- R-1 Residential Single Family District
- C-1 General Commercial District
- C-2 Highway Commercial District
- I Industrial District
- Corporate Limits

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### LEGEND

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## **ARTICLE 1: GENERAL PROVISIONS**

### **1.1 TITLE**

This Ordinance shall be known, referred to, and cited as the Zoning Ordinance of the Village of Pleasanton, Nebraska.

### **1.2 JURISDICTION**

The provisions of these Regulations shall apply within the planning jurisdiction of Pleasanton, Nebraska, as established on the map entitled "The Official Zoning Map of the Village of Pleasanton, Nebraska." The jurisdiction includes the zoning areas within and up to one mile of the corporate limits of the Village of Pleasanton, Nebraska.

### **1.3 PURPOSE**

In pursuance of the authority conferred by Sections 19-901 through 19-914 of Nebraska Statutes as amended, this ordinance is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants in the Village of Pleasanton by regulating and restricting the height, number of stories, and size of buildings and other structures, the size of yards, courts, and other open spaces, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes in accordance with the Pleasanton Comprehensive Plan and the zoning maps adopted herewith.

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## **ARTICLE 2: APPLICATION OF REGULATIONS**

### **2.1 GENERAL**

The zoning regulations set forth by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

### **2.2 ZONING AFFECTS EVERY BUILDING AND USE**

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved or structurally altered except in conformity with all of the zoning regulations herein specified for the district in which it is located.

### **2.3 YARD AND LOT REDUCTION PROHIBITED**

No yard or lot existing at the time of passage of this ordinance shall be reduced by private action in dimension or area below the minimum requirements set herein. Yards or lots created after the effective date of this ordinance shall meet the minimum requirements established by these regulations.

### **2.4 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. Where applicable, Municipal, State, or Federal standards which are more restrictive than those contained herein, the more restrictive standards shall apply.

### **2.5 NONCONFORMITIES**

Nonconformities; Intent. Nonconformities are of three types: nonconforming lots of record, nonconforming structures and nonconforming uses.

#### **2.51 NONCONFORMING LOTS OF RECORD**

The Zoning Administrator may issue a Permit for any nonconforming lot of record provided that:

Said lot is shown by a recorded plat or deed to have 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 not have been prohibited, and

Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the zoning regulation, and

Said lot can meet all required yard regulations for the district in which it is located.

## **2.52 NONCONFORMING STRUCTURES**

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 use regulations and/or the applicable yard and height regulations may be continued, so long as it remains otherwise lawful.

Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired, remodeled, or rebuilt; 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.

Damage or Destruction: In the event any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 75 percent of its assessed fair market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 75 percent or less of its assessed fair market value, no repairs or restoration shall be made unless a building permit is obtained within six (6) months, and restoration is actually begun one (1) year after the date of such partial destruction and is diligently pursued to completion.

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.

## **2.53 NONCONFORMING USES**

Authority to Continue: Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful.

Ordinary Repair and Maintenance:

1. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, water and/or waste disposal systems, may be performed on any structure or system that is devoted in whole or in part to a nonconforming use.
2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official in charge of protecting the public safety who declares such structure to be unsafe and orders its restoration to a safe condition.

Extension: A nonconforming use shall not be extended, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to the extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these Regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).

Enlargement: No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.

Damage or Destruction: In the event that a nonconforming building or use is damaged to the extent of more than sixty (60) percent of its reasonable replacement value, the property shall conform to the zone in which it is located.

Moving: No structure that is devoted in whole or in part to a nonconforming use and nonconforming use of land shall be moved in whole or in part for any distance whatever, to any location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

Change in Use: If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the governing body after receiving a recommendation from the Planning Commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. More appropriate shall mean creating less traffic, noise, glare, odor or other characteristics of the proposed use. In permitting such change, the governing body may require appropriate conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.

Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned, for a period of twelve (12) consecutive months, such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

Nonconforming Accessory Uses: No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

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## **ARTICLE 3: GENERAL DEFINITIONS**

### **3.1 GENERAL PROVISIONS**

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Ordinance.

#### **3.11 TENSE:**

Words used in the present tense include the future tense.

#### **3.12 NUMBER:**

Words used in the singular include the plural, and words used in the plural include the singular.

#### **3.13 SHALL AND MAY:**

The word "shall" is mandatory; the word "may" is permissive.

#### **3.14 HEADINGS:**

In the event that there is any conflict or inconsistency between the heading of an article, section or paragraph of this Ordinance and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

### **3.2 GENERAL TERMINOLOGY**

The word "Village" shall mean the Village of Pleasanton Nebraska. The word "Governing Body" shall mean the Village Board of Pleasanton, Nebraska. The words "Planning Commission" shall mean the Planning Commission of Pleasanton duly appointed by the governing body of the Village of Pleasanton.

Words or terms not herein defined shall have their ordinary meaning in relation to the context.

### **3.3 DEFINITION**

For the purpose of this Ordinance certain words and terms used herein are defined as follows;

**ACCESSORY USE OF BUILDING:** A subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, amateur radio or land mobile towers of less than 100 feet, and residential, agricultural and recreational storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure.

**AGRICULTURAL FARM OR OPERATION:** A tract of land or a combination of tracts of land utilized primarily for agricultural purposes which either singularly or jointly consist of at least ten (10) acres and which produces one thousand dollars (\$1,000) or more of farm products each year.

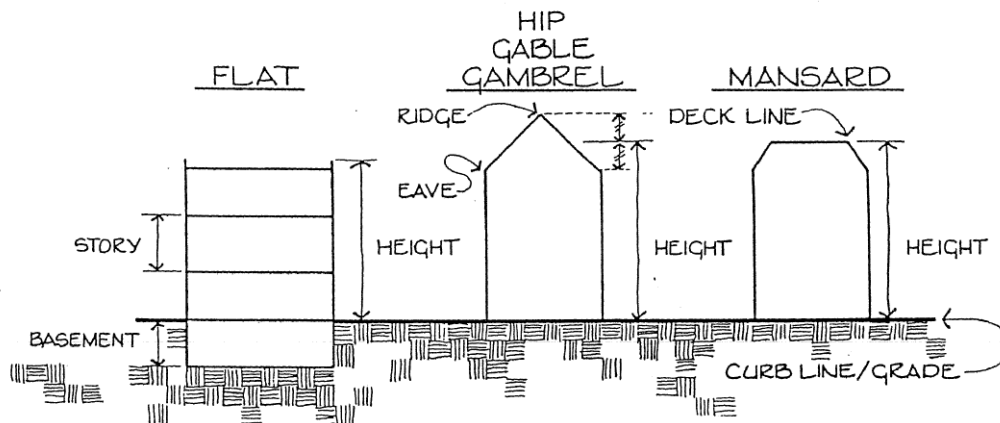
**ALLEY:** is a public or private thoroughfare which affords only a secondary means of access to the property abutting thereon.

**BUILDABLE AREA:** The portion of a lot remaining after required yards have been provided.

**BUILDING:** An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. "Building" includes "structure".

**BUILDING COVERAGE:** The area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

**BUILDING HEIGHT:** The vertical distance to the highest point of the roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front lot line or from the grade in all other cases.



Source: A Survey of Zoning Definitions, (American Planning Association, 1989).

**CAMP GROUNDS:** Any premises where two (2) or more camping units are parked/placed for camping purposes, or any premises used or set apart for supplying to the public, camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures used or intended for use or intended wholly or in part for the accommodation of transient campers.

**CARGO CONTAINER:** A reusable industrial grade steel container designed for worldwide shipping and for storage of products.



**CHILD CARE CENTER:** A facility which is or should be licensed by the Nebraska Department of Health and Human Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska, as provided and defined under the Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002.

**CHILD CARE HOME:** A private home providing care (for children) for compensation which is or should be licensed by the Nebraska Department of Health and Human Services.

**CONDITIONAL USE:** A use which is allowed in a zone when specified conditions have been complied with as identified for each district as a conditional use. A conditional use permit is reviewed and issued by the zoning administrator.

**DWELLING:** Any building or portion thereof which is designed and used exclusively for residential purposes.

**DWELLING, MULTIFAMILY:** A building or portion thereof used for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units.

**DWELLING, SINGLE FAMILY:** A dwelling having accommodations for and occupied by one (1) family.

**DWELLING, TWO-FAMILY:** A residential building containing two (2) dwelling units entirely surrounded by open space on the same lot.

**DWELLING UNIT:** consists of one or more rooms which are arranged, designed or used as a separate living quarters by a single family or other group of persons living together as a household or a person living alone. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each "dwelling unit".

**EASEMENT:** A grant by the property owner to the public, a corporation or persons for the use of a tract of land for a specific purpose or purposes.

**FARM RESIDENCE:** Residential dwellings located on a farm, including mobile homes appurtenant to agricultural operations including the living quarters for persons employed on the premises.

**FARMSTEAD:** Any building site that includes at least two (2) buildings that have combined assessed valuation for tax purposes of at least \$5,000 as of the date on which these regulations go into effect.

**FENCE:** Any vertical structure, other than a building or plant material is for the purpose of obstructing visual observation; or for the purpose of obstructing pedestrian, automotive, or animal movement; or for the purpose of beautification; and which is attached to the ground or to a building, but excluding retaining walls.

**FENCE, CLOSED:** A fence where the solid material of the fence is more than fifty (50) percent of the surface area of the fence.

**FENCE, HEIGHT:** A fence height shall be measured from the top of the fence to the lowest grade at the base of the fence.

**FENCE, OPEN:** A fence where the design contains openings that constitute not less than fifty (50) percent of the surface area of the fence.

**FENCE, SURFACE AREA:** The surface area of a fence is the product of a length of fence measured from the inside edge of one support post or column to the inside edge of the next adjacent support post or column, times the height of the same section of fence.

**FOWL:** Domesticated bird species kept by humans for future consumption as food sources, or kept for the breeding of offspring for the same purpose. Fowl are generally kept in pens and consist of chicken and turkey species; pheasants, quail, and similar upland game birds, waterfowl including ducks and geese.

**GROUP HOME:** means a facility which houses more than five (5) but less than sixteen (16) persons who are unrelated by blood, marriage or adoption. Those facilities may offer, in addition to lodging, accommodations, meals, resident support services, counseling, guidance and varying levels of medical care. Such facility shall be licensed or approved by the State of Nebraska or other appropriate agency.

**HEDGE:** A dense planting of bushes or shrubs designed, installed, and maintained to form a compact, dense, living barrier which protects, shields, separates, or demarcates an area from view.

**HOME OCCUPATION:** An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

**IMPERVIOUS COVERAGE:** The total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of total site area. The surface water area of pools is excluded from this definition.

**LIVESTOCK:** Domesticated, hooved animal species kept by humans for future consumption as food sources, or kept for the breeding of offspring for the same purpose. Livestock are generally kept in pastures and pens.

**LIVESTOCK, CONFINEMENT FACILITIES/OPERATIONS:** Shall mean any building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than 180 consecutive days.

**LANDFILL:** A disposal site employing an engineering method of disposing solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day and in conformance with the requirements of the Nebraska Department of Health and Human Service System.

**LOT:** A parcel of land occupied or intended for occupation by a use permitted in this Ordinance and fronting upon a street or road.

**LOT, CORNER:** A lot abutting two or more streets or roads at their intersection.

**LOT DEPTH:** The average horizontal distance between the front and rear lot lines.

**LOT FRONTAGE:** The front of a lot shall be construed to be the portion nearest the street or road.

**LOT OF RECORD:** A lot of which is part of a subdivision recorded in the Office of the Register of Deeds, or a lot or parcel described by metes and bounds the description of which has been so recorded.

**LOT WIDTH:** The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

**MANUFACTURED HOME:** A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.

**MOBILE HOME:** A year-round, transportable structures which is a single family dwelling unit suitable for permanent, more than thirty (30) days of living quarters, more than eight (8) feet wide and forty (40) feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units, separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or these manufactured in sections or parts away from the site and transported thereto for assembly.

**MOBILE HOME PARK:** Any area of land which two (2) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

**MODULAR HOME:** Any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label certifying that it was built to compliance with the Nebraska Department of Health and Human Services System as established in Section 71-1557 of the Nebraska revised Statutes.

**NONCONFORMING LOT OF RECORD:** A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the approval date of this Ordinance and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

**NONCONFORMING STRUCTURE:** An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.

**NONCONFORMING USE:** An existing use of a structure or of land which does not comply with the use regulation applicable to new uses in the zoning district in which it is located.

**PARKING SPACE, OFF-STREET:** An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or road and permitting ingress and egress of an automobile.

**PETS, LARGE ANIMAL:** Domesticated hooved animal species kept by humans which are typically housed in pens or enclosures outside of a residence such as a corral, barn, stable, or fenced pasture. Large animals typically kept as pets include horses, mules, ponies, cows, calves, sheep, goats, llamas, alpacas and pigs.

**PETS, HOUSEHOLD:** Domesticated animal species kept by humans for companionship, entertainment, or as a hobby typically within the confines of a residence, oftentimes in an enclosure of some type, but some types of household pets routinely leave the confines of the residence and are brought into the public realm. Typical pets include dogs; cats; potbelly pigs; specialty rabbits; laboratory rats and mice; guinea pigs, hamsters, gerbils, and similar rodents; chinchillas and ferrets; parrot and parakeet type birds; finches; doves; non-venomous reptiles and amphibians; arachnids; and fresh and saltwater fish.

**PRINCIPAL USE:** The main use of land or structures as distinguished from an accessory use.

**RECYCLING CENTER:** A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum, and paper; and similar household wastes; no hazardous material as defined by state and federal law is accepted; there is no wrecking or dismantling of salvage material and no salvage material is held outside a building.

**RECYCLING COLLECTION POINT:** A collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure.

**SANITARY LANDFILL:** A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles, or parts thereof, or other waste, and which is in conformance with the requirements of the Nebraska Department of Health and Human Service System.

**SANITARY TRANSFER STATION:** A collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of the Nebraska Department of Health and Human Service System.

**SALVAGE OR JUNKYARD:** A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.

**SPECIAL USE PERMIT:** A written permit issued with authorization of the applicable governing body. The special permit provides permission under specific conditions to make certain special uses of land in certain zoning districts as stipulated under permitted special uses in each of the district zoning regulations.

**STORAGE CONTAINER:** See Cargo Container.

**STREET:** All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street purposes.

**STREET, CENTER LINE:** A line midway between street lines.

**STREET LINE:** A dividing line between a lot, tract, or parcel of land and the contiguous street. The right-of-way line of a street.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, street signs, bridges and culverts.

**STRUCTURAL ALTERATION:** Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders or any structural change in the roof.

**TOWNHOUSE:** One of a group or row of not less than two (2) nor more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

**VARIANCE:** A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

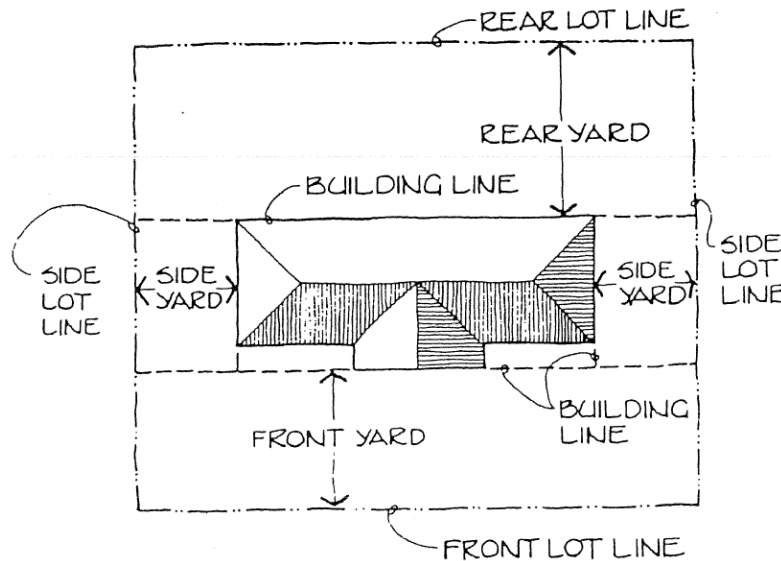
**WALL:** A continuous vertical structure which encloses or divides an area of land.

**YARD:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yards accessories, ornaments, and furniture may be permitted in any yard subject to the district regulations.

**YARD, FRONT:** A yard extending from the front lot line adjoining a public street to the front of the building between side lot lines.

**YARD, REAR:** A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of the main building.

**YARD, REQUIRED:** The required minimum open space between the property line and the yard line. The required yard shall contain no building or structure other than the projection of the usual steps, or open porches, or as otherwise provided in these regulations.



Source: A Survey of Zoning Definitions, (American Planning Association, 1989)

**YARD, SIDE:** A yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the main building.

**ZONING BOARD OF ADJUSTMENT:** The legally appointed board empowered to hear and decide appeals from, and to provide interpretations of, the terms of the zoning ordinance and official maps as defined within this ordinance and in accordance with the laws of the State of Nebraska.

**ZONING DISTRICT:** The term "Zoning District" means an area delineated on a zoning map for which uniform use regulations are specified.

**ZONING MAP:** The term "Zoning Map" means a map or maps officially enacted by the governing body as part of this ordinance showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the Village Clerk as an official record of the Village.

**ZONING ADMINISTRATOR:** The person or persons authorized and empowered by the governing body to administer the requirements of the zoning regulations.

*(Ord. No. 2022-O-2, 03-08-2022)*

## **ARTICLE 4: ESTABLISHMENT AND DESIGNATION OF DISTRICTS**

### **4.1 PLANNING COMMISSION RECOMMENDATIONS**

It shall be a purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the governing body shall not hold its public hearings or take action until it has received the final report of the Planning Commission.

### **4.2 DISTRICTS CREATED**

For the purpose of this Ordinance, there are hereby created zoning districts, as named and described in Article 5 of this Ordinance.

AGR Agriculture Residential District  
R-1 Residential Single Family District  
C-1 General Commercial District  
C-2 Highway Commercial District  
I Industrial

### **4.3 OFFICIAL ZONING MAP**

1. The boundaries of the district are shown upon maps, which are made a part hereof by reference, which map(s) are designated as the Village of Pleasanton Zoning District Map, dated \_\_\_\_\_ and signed by the Mayor and attested by the Village Clerk and hereinafter referred to as the "Official Zoning Maps."
2. The signed copy of the Zoning Map(s) containing the zoning districts designated at the time of adoption of this ordinance shall be maintained in the office of the Village Clerk for the use and benefit of the public.
3. 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(s), such changes shall be entered on the appropriate part of the Official Zoning Map(s) promptly after the amendment has been approved by the governing body, with an entry on the Official Zoning Map(s) as follows:
4. On (date), by official action of the Village Board, the following change was made in the Official Zoning Map(s) (brief description of the nature of the change), which entry shall be signed by the Mayor and attested by the Village Clerk."
5. No amendment to this resolution/ ordinance which involves matter portrayed on the Official Zoning Map(s) shall become effective until after such change and entry have been made on said map(s).



6. No changes of any nature shall be made in the Official Zoning Map(s) or matter shown thereon except in conformity with the procedures set forth in this ordinance.
7. In the event that the Official Zoning Map(s) become damaged, destroyed, lost or difficult to interpret, the Village Board, may, by ordinance, adopt a new Official Zoning Map(s) which shall supersede the prior Official Zoning Map(s).
8. The new Official Zoning Map(s) may correct drafting or other errors or omissions in the prior Official Zoning Map(s), but no such correction shall have the effect of amending the original Official Zoning Map(s) or any subsequent amendment thereof.

#### **4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map(s), the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following Village limits shall be construed as following such Village limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as parallel to or extension of features indicated in subsection 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map(s) shall be determined by the scale of the map.
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map(s), or in other circumstances not covered by subsection 1 through 5 above, the Board of Zoning Adjustment shall interpret the district boundaries.
7. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance the Board of Zoning Adjustment may permit, as an exception, the extension of the regulations for either portion of the lot not to exceed one hundred and fifty (150) feet beyond the district line into the remaining portion of the lot.

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## **ARTICLE 5: ZONING DISTRICTS**

### **5.1 AGR - AGRICULTURE RESIDENTIAL DISTRICT**

#### **5.11 INTENT:**

This district is intended for general agricultural purposes within one mile of the Village of Pleasanton.

#### **5.12 PERMITTED PRINCIPAL USES AND STRUCTURES:**

The following shall be permitted as uses by right:

1. Single family dwellings, ranch and farm residences;
2. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations.
3. Public facilities and utility distribution systems;
4. One additional single family, ranch and farm residence for the purpose of housing relatives or agricultural workers; and
5. Churches, places of worship and cemeteries.

#### **5.13 PERMITTED ACCESSORY USES AND STRUCTURES:**

The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses;
2. Home occupations in accordance with Article 8.2; and
3. Roadside stands for the sale of agricultural produce grown on the agricultural farm or operation.

#### **5.14 PERMITTED SPECIAL USES:**

A building or premise may be used for the following purposes in the "AGR" Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Sewage disposal and water systems, including agricultural irrigation wells;
2. Public and private uses including parks, playgrounds, golf courses, campgrounds, recreation uses, riding stables, dude ranches, public utilities and utility distribution system;
3. Flood, erosion and sediment control projects;
4. Broadcast towers and stations, including Amateur Radio or land mobile towers of more than 100 feet;
5. Bed and breakfast establishments;
6. Salvage or junk yard in accordance with Section 6.3;

7. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries;
8. Expansion of existing or development of new livestock confinement facility or operation.

Other Conditions include:

- A. Tract of land must be located at least one-eighth (1/8) mile from any residence or commercial or industrial facility, or church or school, or any other facility operated and/or utilized by the general public other than the residence of the owner and/or operator of the subject facility;
  - B. Total limit of livestock at a new facility located within Pleasanton's one-mile planning jurisdiction shall not exceed a combination of 50 head; and
  - C. No livestock animal waste lagoons permitted.
9. Commercial, Manufacturing and Industrial uses, and
  10. Rural subdivisions with individual parcels less than three (3) acres in accordance with the Nebraska Department of Environmental Quality - Title 124 and Department of Health and Human Services Regulations and with a shared or "community" drinking water and sanitary sewer system, then the minimum lot area of individual parcels may be reduced to one (1) acre.

**5.15 PROHIBITED USES AND STRUCTURES:**

All other uses and structures which are not specially permitted or not permissible as special uses shall be prohibited from the AGR Agricultural Residential District.

**5.16 SPECIAL REGULATION:**

Provisions must be made for disposal of wastes in accordance with local and state regulations.

**5.17 MINIMUM LOT REQUIREMENTS:**

1. The minimum lot area for AGR uses shall be 3 acres.

**5.18 MINIMUM YARD REQUIREMENTS:**

- Front Yard: There shall be a minimum front yard of not less than a depth of twenty-five (25) feet, measured from the existing road way right-of-way line.
- Rear Yard: No limitations; unless abutting a residential district then the minimum rear yard shall be fifteen (15) feet.
- Side Yard: No limitations; unless abutting a residential district then the minimum side yard shall be ten (10) feet.

**5.19 MAXIMUM HEIGHT:**

No limitation.

## **5.2     R-1 RESIDENTIAL SINGLE FAMILY DISTRICT**

### **5.21     INTENT:**

This district is intended to provide for residential uses consisting primarily of single family dwelling units and accessory structures by also including the permitted uses set forth in Section 5.22 below.

### **5.22     PERMITTED PRINCIPAL USES AND STRUCTURES:**

The following shall be permitted as uses by right:

1. Single family dwellings;
2. Two family dwellings;
3. Manufactured homes which comply with the provisions of Article 8.3;
4. Public and parochial schools;
5. Public parks, buildings and grounds;
6. Child care homes;
7. Public uses: including but not limited to public parks, playgrounds, recreational uses, fire stations, public utilities and utility distribution systems; and
8. Places of worship such as churches and synagogues.

### **5.23     PERMITTED ACCESSORY USES AND STRUCTURES:**

The following accessory uses and structures shall be permitted:

1. Home occupations in accordance with Article 8.2.
2. Accessory uses and structures normally appurtenant to permitted uses and structures.

### **5.24     PERMITTED SPECIAL USES:**

A building or premises may be used for the following purpose in the R-1 Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Medical clinics;
2. Mortuaries;
3. Child care center;
4. Museum and art galleries;
5. Nursing homes;
6. Public and private golf courses;
7. Retirement homes;

8. Bed and breakfast homes;
9. Mobile homes and mobile home parks in accordance with the provisions of Article 8.7;
10. Townhouses; and
11. Multifamily dwellings

## 5.25 PROHIBITED USES AND STRUCTURES:

All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the I Residential District.

## 5.26 HEIGHT AND AREA REGULATIONS:

The maximum height and minimum area regulations shall be as follows:

- a) General Requirements:

	Lot Area (Sq. Ft.)	Lot Width	Required Front Yard	Required Side Yard	Required Street Side Yard	Required Rear Yard	Height
<b>Single Family Dwelling</b>	7,000	50'	25'	7'	15'	25'	35'
<b>Two Family Dwelling</b>	3,500 Per Family	50'	25'	7'	15'	25'	35'
<b>Other Primary Permitted Uses</b>	7,000	50'	25'	7'	15'	25'	35'
<b>Multifamily Dwelling</b>	2,200 Per Family	50'	25'	7'	15'	15'	45'
<b>Accessory Building</b>	<i>See Section 8.1.</i>						

- b) Maximum building coverage shall not exceed thirty-five (35) percent of total lot area.
- c) Maximum impervious coverage shall not exceed forty-five (45) percent of total lot area.
- d) Building and structures shall not exceed two and one half (2 ½) stories in height;
- e) The side yard setback between individual units of two-family dwellings may be reduced to zero, if a one-hour fire rated constructed common wall between units starting at the basement level and continuing through to the roof line is maintain.

(Ord. No. 2014-O-01, 05-13-2014; 2022-O-2, 03-08-2022)

## 5.27 PARKING REGULATIONS:

Parking within the R-1 Residential Ordinance District shall be in conformance with the provisions of Article 7 of this ordinance.

Pleasanton Zoning Regulations

ARTICLE 5: ZONING DISTRICTS | 5.2 R-1 RESIDENTIAL SINGLE FAMILY DISTRICT

### **5.3     C-1 GENERAL COMMERCIAL DISTRICT**

#### **5.31    INTENT:**

This district is designed to provide for a wide range of retail, office, amusement and service uses normally found in a Central Business District. Highest density and intensity of use are permitted in this district.

#### **5.32    PERMITTED PRINCIPAL USES AND STRUCTURES:**

The following shall be permitted as uses by right:

1. Apartments on floors other than ground floor;
2. Automobile sales and services;
3. Automotive wash facilities;
4. Bakery;
5. Banks, savings and loan associations, credit unions and finance companies;
6. Barbershops, beauty parlors and shoeshine shops;
7. Business offices;
8. Child care homes and centers;
9. Commercial recreation facilities (bowling alleys, miniature golf courses and similar uses);
10. Convenience store or filling station;
11. Detached banking facilities (ATM);
12. Dry cleaning or laundry establishments;
13. Food service, restaurants and taverns;
14. Food storage lockers;
15. Funeral homes and mortuaries;
16. Garden centers;
17. Motels and hotels;
18. Museums and art galleries;
19. Office buildings;
20. Parking lots and other off-street parking facilities;
21. Personal and professional services;
22. Photography studios;
23. Private schools, including but not limited to business or commercial schools, and dance or music academies,
24. Public and private charitable institutions;
25. Public parks, buildings and grounds;

26. Public uses of an administrative, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, police and fire stations and other public buildings, structures, and facilities;
27. Retail store or business;
28. Public utility facilities;
29. Sales and showrooms, including service facilities and rental of equipment, provided all displays and merchandise are within the enclosure walls of the buildings;
30. Service stations; and
31. Stores or shops for the sale of goods at retail and/or wholesale.

### **5.33 PERMITTED ACCESSORY USES AND STRUCTURES:**

The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to permitted uses and structures and to uses and structures permitted as special uses.

### **5.34 PERMITTED SPECIAL USES:**

A building or premises may be used for the following purposes in the C-1 Commercial Business District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Multifamily dwellings;
2. Bed and breakfast guest home;
3. Recycling center; and
4. Single Family Dwellings

### **5.35 PROHIBITED USES AND STRUCTURES:**

All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the C-1 Commercial Business District.

### **5.36 SCREENING REQUIREMENTS:**

1. Where a site adjoins or is located across an alley from the Residential District, a solid wall or fence or compact evergreen hedge six (6) feet in height may be required on the property line common to such districts, except in a required front yard.
2. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.



### 5.37 PROHIBITED USES:

1. No use shall be permitted and no process, equipment or materials shall be used which are found by the Village to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, noise, vibrations, illumination, glare, or unsightliness or to involve any hazard of fire or explosion.

### 5.38 HEIGHT AND AREA REGULATIONS:

The maximum height and minimum area regulations shall be as follows:

a) General Requirements:

	Lot Area (Sq. Ft.)	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Permitted Uses	3,750	25'	0'	0' or 10' when abutting a residential district	15'	45'
Multifamily Dwelling	2,200 per Family	50'	25'	5' or 7½' on corner lots	15'	45'

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## **5.4     C-2 HIGHWAY COMMERCIAL DISTRICT**

### **5.41    INTENT:**

The C-2 Highway Commercial District is intended for the purpose of servicing highway travelers and providing limited commercial services. Off-street parking is required in order to reduce possible adverse effects on adjacent properties.

### **5.42    PERMITTED PRINCIPLE USES AND STRUCTURES:**

The following shall be permitted as uses by right:

1. Automobile sales;
2. Automobile wash facilities;
3. Churches and other religious institutions;
4. Construction sales and services;
5. Commercial operations and businesses, intended for the purpose of servicing travel and recreational users;
6. Commercial recreational facilities (bowling alleys, miniature golf courses and similar uses);
7. Convenience store or filling station;
8. Detached banking facilities (ATM);
9. Electric and telephone substations;
10. Farm implement sales and services;
11. Garden centers and nurseries;
12. Irrigation equipment sales and services;
13. Mini storage facilities;
14. Mobile homes sales;
15. Motels, including accessory service uses, such as swimming pools, liquor stores and restaurants;
16. Restaurants and cafes;
17. Service stations;
18. Single family homes;
19. Stores or shops for sale of goods at retail;
20. Transportation warehousing
21. Trucks and freight terminals;
22. Utilities, including shops and offices; and
23. Medical clinics.

#### **5.43 PERMITTED ACCESSORY USES AND STRUCTURES:**

The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses.

#### **5.44 PERMITTED SPECIAL USES:**

A building or premises may be used for the following purposes in the C-2 Highway Commercial District if a special use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Private clubs and lodges;
2. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agriculture chemicals;
3. Radio studios, transmitters and antenna; and
4. Recycling centers.

#### **5.45 SCREENING REQUIREMENTS:**

1. Where a site adjoins or is located across an alley from the Residential District, a solid wall or fence or compact evergreen hedge six (6) feet in height may be required on the property line common to such districts, except in a required front yard.
2. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

#### **5.46 PROHIBITED USES:**

1. All other uses and structures which are not specifically permitted or permissible as special uses shall be prohibited from the C-2 Highway Commercial District.

#### **5.47 HEIGHT AND AREAS REGULATIONS:**

The maximum height and minimum area regulations shall be as follows:

1. General Requirements:

	<b>Lot Area (Sq. Ft.)</b>	<b>Lot Width</b>	<b>Required Front Yard</b>	<b>Required Side Yard</b>	<b>Required Rear Yard</b>	<b>Height</b>
<b>Permitted Uses</b>	7,500	50'	25'	7'	20'	35'

#### **5.48 PARKING REGULATIONS:**

1. Parking within the C-2 Highway Commercial District shall be in conformance with the provisions of Article 7 of these regulations.

## **5.5    I INDUSTRIAL DISTRICT**

### **5.51    INTENT:**

This district is designed to provide for a wide range of industrial and related uses.

### **5.52    PERMITTED PRINCIPAL USES AND STRUCTURES:**

The following shall be permitted as uses by right:

1. Agriculture, excluding the expansion of existing or development of commercial livestock facilities/operations;
2. Animal care;
3. Automobile sales and services;
4. Automotive wash facilities;
5. Bottling works;
6. Building material sales, except for ready-mix concrete plants and similar uses which emit particulate, odor or smoke;
7. Carpenter, cabinet, plumbing or sheet metal shops;
8. Grain storage;
9. Construction sales and services;
10. Dry cleaning and/or laundry plants;
11. Farm implementation sales and services;
12. Farm produce sales;
13. Food service, restaurants and taverns;
14. Freight and truck terminals;
15. Frozen food lockers;
16. Furniture warehouses;
17. Garden centers and nurseries;
18. Groceries, retail and wholesale;
19. Light manufacturing operations, providing that such use is not noxious by reason of vibration or noise beyond the confines of the building, or by the emission of particulates, fumes, gas, odor, or smoke;
20. Machinery sales and storage lots;
21. Mobile and modular home sales and manufacturing;
22. Newspaper publishing plants;

23. Public and quasi-public uses of an educational, recreational or religious type including public and parochial elementary schools and junior high schools, high schools; private non-profit schools, churches, parsonages, and other religious institutions; parks and playgrounds;
24. Public utility and public service uses;
25. Transportation warehousing;
26. Warehouse or storage houses;
27. Wholesale sales and services; and
28. Any similar uses that are determined by the Village Board after referral to and recommendation by the Planning Commission to be of an industrial use similar to the above listed uses.

### **5.53 PERMITTED ACCESSORY USES:**

Accessory uses and structures normally appurtenant to permitted uses and structures.

### **5.54 PERMITTED SPECIAL USES:**

A building or premises may be used for the following purposes in the I Industrial District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Junk and salvage yard (in conformance with Article 6.3);
2. Recycling center; and
3. Ethanol and/or alcohol plants.

### **5.55 PROHIBITED USES AND STRUCTURES:**

All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the I Industrial District.

### **5.56 HEIGHT AND AREA REGULATIONS:**

The maximum height and minimum area regulations shall be as follows:

#### **a. General Requirements:**

	<b>Lot Area (Sq. Ft.)</b>	<b>Lot Width</b>	<b>Required Front Yard</b>	<b>Required Side Yard</b>	<b>Required Rear Yard</b>	<b>Height</b>
<b>Permitted Uses</b>	10,000	50'	35'	0', 10' when abutting a residential district	45'	35'

### **5.57 PARKING REGULATIONS:**

Parking within the I-1 Industrial District shall be in conformance with the provisions of Article 7 of these regulations.

## **5.6 FLOODPLAIN OVERLAY DISTRICT**

### **5.61 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES**

#### **5.61.1. STATUTORY AUTHORIZATION**

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety, general welfare, and property of the people of the state. The Legislature, in Nebraska Revised Statutes Sections 31-1001 to 31-1023 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city, or village with zoning jurisdiction over the flood prone area. Therefore the Village of Pleasanton, Nebraska ordains as follows:

#### **5.61.2. FINDINGS OF FACT**

##### **A. Flood Losses Resulting from Periodic Inundation**

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

##### **B. General Causes of the Flood Losses**

These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities as well as the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.

#### **5.61.3. STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 5.6 by applying the provisions of this ordinance to:

- A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
- B. Require that uses vulnerable to floods, including public facilities that service such uses, be provided with flood protection at the time of initial construction.
- C. Reduce financial burdens from flood damage borne by the community, its governmental units, its residents, and its businesses by preventing excessive and unsafe development in areas subject to flooding.

- D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance from the National Flood Insurance Program.

#### **5.61.4. ADHERENCE TO REGULATIONS**

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

### **5.62 GENERAL PROVISIONS**

#### **5.62.1. LANDS TO WHICH ORDINANCE APPLIES**

This ordinance shall apply to all lands within the jurisdictions of the Village of Pleasanton identified on the Flood Insurance Rate Map (FIRM) number 31019C0255D dated November 26, 2010 as Zone A and within the Zoning District established in Section 5.63 of this ordinance. In all areas covered by this ordinance, no development shall be allowed except upon the issuance of a floodplain development permit to develop, granted by the floodplain administrator or the governing body under such safeguards and restrictions as the Pleasanton Village Board of Trustees or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 5.64 and 5.65.

#### **5.62.2. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

The boundaries of the floodway and the flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the effective Flood Insurance Rate Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the zoning or other community map, the floodplain administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Village Board of Appeals will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the Village Board of Appeals and to submit their own technical evidence, if so desired.

#### **5.62.3. COMPLIANCE**

Within identified floodplains of this community, no development shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.



#### **5.62.4. ABROGATION AND GREATER RESTRICTIONS**

This ordinance does not intend to repeal, abrogate, or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

#### **5.62.5. INTERPRETATION**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

#### **5.62.6. WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of the Village of Pleasanton or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

#### **5.62.7. SEVERABILITY**

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

### **5.63 ESTABLISHMENT OF ZONING DISTRICTS**

The mapped floodplain areas within the jurisdiction of this ordinance are hereby established as the floodplain overlay district, as identified in the report entitled “Floodplain Study, Pleasanton, Nebraska” prepared by Miller & Associates and dated September, 2004 and on accompanying FIRM panels as established in Section 5.62.1. The floodplain overlay district shall correspond to flood zone A. Within this district, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

## **5.64 FLOODPLAIN MANAGEMENT ADMINISTRATION**

### **5.64.1. DESIGNATION OF FLOODPLAIN ADMINISTRATOR**

The floodplain administrator under contract with the community is hereby designated as the community's local floodplain administrator. The floodplain administrator is authorized and directed to administer, implement, and enforce all provisions of this ordinance. If the local floodplain administrator position is unfilled, the community CEO shall assume the duties and responsibilities herein.

### **5.64.2. PERMITS REQUIRED**

A floodplain development permit shall be required before any development, construction, or substantial improvement is undertaken. No person, firm, corporation, government agency, or other entity shall initiate any floodplain development without first obtaining a floodplain development permit.

### **5.64.3. DUTIES OF THE FLOODPLAIN ADMINISTRATOR**

- A. Duties of the floodplain administrator shall include, but not be limited to the following:
- i. Review, approve, or deny all applications for floodplain development permits.
  - ii. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
  - iii. Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.
  - iv. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
  - v. Coordinate with the Nebraska Department of Natural Resources to obtain base flood elevation information when applicable and required.
  - vi. Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
  - vii. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
  - viii. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures in the floodplain.

- ix. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which all new or substantially improved structures have been flood proofed.
- x. Verify, record, and maintain record of all improved or damaged structures to ensure compliance with standards in applicable sections. Track value of improvements and market value with permits. Also, ensure consistent market value estimations to evaluate against damaged or improved values.
- xi. Ensure comprehensive development plan as amended is consistent with this ordinance.
- xii. In the event the floodplain administrator discovers work done that does not comply with applicable laws or ordinances, the floodplain administrator shall revoke the permit and work to correct any possible violation in accordance with this ordinance.

#### **5.64.4. APPLICATION FOR PERMIT AND DEMONSTRATION OF COMPLIANCE**

- A. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
  - i. Identify and describe the proposed development and estimated cost to be covered by the floodplain development permit.
  - ii. Describe the land on which the proposed development is to be done by lot, block, tract, and house and streets address, or similar description that will readily identify and definitely locate the proposed building or development.
  - iii. Indicate the use or occupancy for which the proposed development is intended.
  - iv. Be accompanied by plans and specifications for proposed construction.
  - v. Be signed by the permittee and authorized agent who may be required to submit evidence to indicate such authority.
- B. If any proposed development is located entirely or partially within a floodplain, applicants shall provide all information in sufficient detail and clarity to enable the floodplain administrator to determine that:
  - i. All such proposals are consistent with the need to minimize flood damage;
  - ii. All utilities and facilities such as sewer, gas, water, electrical, and other systems are located and constructed to minimize or eliminate flood damage;
  - iii. Structures will be anchored to prevent flotation, collapse, or lateral movement;

- iv. Construction materials are flood resistant;
  - v. Appropriate practices to minimize flood damage have been utilized; and
  - vi. Electrical, heating, ventilation, air conditioning, plumbing, and any other service facilities have been designed and located to prevent entry of floodwaters.
- C. For all new and substantially improved structures, an elevation certificate based upon the finished construction certifying the elevation of the lowest floor, including basement, and other relevant building components shall be provided to the floodplain administrator and be completed by a licensed surveyor, engineer, or architect.
- D. When flood proofing is utilized for an applicable structure, a flood proofing certificate shall be provided to the floodplain administrator and be completed by a licensed professional engineer or architect.
- E. Any other such information as reasonably may be required by the floodplain administrator shall be provided.
- F. Letters of Map Revision: Federal regulations in Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.5 and 65.6 allow for changes to the special flood hazard area through a Letter of Map Revision (LOMR) or a Letter of Map Revision Based on Fill (LOMR-F), provided the community determines that the land and any existing or proposed structures that would be removed from the floodplain are “reasonably safe from flooding.” The community acknowledgement form asserting this is required for LOMR and LOMR-F applications and must be signed by the floodplain administrator. The floodplain administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:
- i. Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F.
  - ii. Applicant shall demonstrate that the property and any existing or proposed structures will be “reasonably safe from flooding,” according to the minimum design standards in FEMA Technical Bulletin 10-01.
  - iii. All requirements listed in the Simplified Approach in FEMA Technical Bulletin 10-01 shall be met and documentation from a registered professional engineer shall be provided. If all of these requirements are not met, applicant must provide documentation in line with the Engineered Approach outlined in FEMA Technical Bulletin 10-01.

#### **5.64.5. FLOOD DATA REQUIRED**

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

#### **5.64.6. VARIANCES AND APPEALS**

##### **Variance and Appeals Procedures**

- A. The Village Board of Appeals as established by the Village of Pleasanton shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- B. The Village Board of Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the {floodplain administrator} in the enforcement or administration of this ordinance.
- C. Any person aggrieved by the decision of the Village Board of Appeals or any taxpayer may appeal such decision to the District Court as provided in Nebraska Revised Statutes Section 23- 168 (for counties) and Nebraska Revised Statutes Section 19-192 (for municipalities).
- D. In evaluating such appeals and requests, the Village Board of Appeals shall consider technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
  - i. The danger to life and property due to flooding or erosion damage;
  - ii. The danger that materials may be swept onto other lands to the injury of others;
  - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, future owners, and neighboring properties;
  - iv. The importance of the services provided by the proposed facility to the community;

- v. The necessity of the facility to have a waterfront location, where applicable;
- vi. The availability of alternative locations that are not subject to flooding or erosion damage for the proposed use;
- vii. The compatibility of the proposed use with existing and anticipated development;
- viii. The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;
- ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- x. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
- xi. The costs of providing government services during and after flood conditions including emergency management services and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

#### **Conditions for Variances**

- A. Variances shall only be issued upon a showing of good and sufficient cause and also upon a determination that failure to grant the variance would result in an exceptional hardship to the applicant.
- B. Variances shall only be issued based upon a determination that the granting of a variance will not result in increased flood heights.
- C. Variances shall only be issued based upon a determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- D. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items E-I below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- E. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure on the National Register of Historic Places and the variance is the minimum necessary to preserve the historic character and design of the structure.

- F. Variances shall only be issued upon a determination that the variance in the minimum necessary, considering the flood hazard, to afford relief.
- G. The applicant shall be given a written notice over the signature of a community that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and also that such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
- H. All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by the community.

#### **5.64.7. ENFORCEMENT**

##### **A. Violations**

Failure to obtain a floodplain development permit or the failure of a structure or other development to be fully compliant with the provisions of this ordinance shall constitute a violation. A structure or other development without a floodplain development permit, elevation certificate, certification by a licensed professional engineer of compliance with these regulations, or other evidence of compliance is presumed to be in violation until such time as documentation is provided.

##### **B. Notices**

When the floodplain administrator or other authorized community representative determines, based on reasonable grounds, that there has been a violation of the provisions of this ordinance, the floodplain administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

- i. Be in writing;
- ii. Include an explanation of the alleged violation;
- iii. Allow a reasonable time for the performance of any remedial act required;
- iv. Be served upon the property owner or their agent as the case may require; and
- v. Contain an outline of remedial actions that, if taken, will bring the development into compliance with the provisions of this ordinance.

### C. Penalties

- i. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person, firm, corporate, or other entity that violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- ii. The imposition of such fines or penalties for any violation or non-compliance with this ordinance shall not excuse the violation or non-compliance or allow it to continue. All such violations or non-compliant actions shall be remedied within an established and reasonable time.
- iii. Nothing herein contained shall prevent the Village of Pleasanton or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

## **5.65 STANDARDS FOR FLOODPLAIN DEVELOPMENT**

### **5.65.1. GENERAL PROVISIONS**

#### A. Alteration or Relocation of a Watercourse

- i. A watercourse or drainway shall not be altered or relocated in any way that in the event of a base flood or more frequent flood will alter the flood carrying characteristics of the watercourse or drainway to the detriment of upstream, downstream, or adjacent locations.
- ii. No alteration or relocation shall be made until all adjacent communities that may be affected by such action and the Nebraska Department of Natural Resources have been notified and all applicable permits obtained. Evidence of such notification shall be submitted to the Federal Emergency Management Agency.

#### B. Encroachments

- i. When proposing to permit any of the following encroachments, the standards in Section 5.65.1 (B) (ii) shall apply:
  - a. Any development in Zone A without a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
  - b. Alteration or relocation of a stream; then
- ii. The applicant shall:



- a. Apply to FEMA for conditional approval of such action via the Conditional Letter of Map Revision process (as per Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.12) prior to the permit for the encroachments; and
- b. Supply the fully approved package to the floodplain administrator including any required notifications to potentially affected property owners.

## **5.65.2. ELEVATION AND FLOODPROOFING REQUIREMENTS**

### **A. Residential Structures**

- i. In Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation.

### **B. Nonresidential Structures**

- i. In Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, flood proofed so that below one (1) foot above the base flood elevation:
  - a. The structure is watertight with walls substantially impermeable to the passage of water and
  - b. The structure has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A flood proofing certificate shall be provided to the floodplain administrator as set forth in Section 5.64.

### **C. Space Below Lowest Floor**

- i. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be used solely for the parking of vehicles, building access, or limited storage of readily removable items.
- ii. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two openings having a net total area of not less than one (1) square inch for every one (1) square foot of enclosed space,

- b. The bottom of all openings shall not be higher than one (1) foot above grade, and
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.

#### D. Appurtenant Structures

- i. Structures accessory to a principal building may have the lowest floor below one foot above base flood elevation provided that the structure complies with the following requirements;
  - a. The structure shall not be used for human habitation.
  - b. The use of the structure must be limited to parking of vehicles or storage of items readily removable in the event of a flood warning.
  - c. The floor area shall not exceed 400 square feet.
  - d. The structure shall have a low damage potential.
  - e. The structure must be adequately anchored to prevent flotation, collapse, or other lateral movement.
  - f. The structure shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
    - 1. A minimum of two openings having a net area of not less than one (1) square inch for every one (1) square foot of enclosed space,
    - 2. The bottom of all openings shall not be higher than one (1) foot above grade, and
    - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.
  - g. No utilities shall be installed except electrical fixtures in the structure, which must be elevated or flood proofed to one (1) foot above base flood elevation.
  - h. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
  - i. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

#### E. Manufactured Homes

- i. Require that all manufactured homes to be placed or substantially improved within floodplains on sites:
  - a. Outside of a manufactured home park or subdivision,
  - b. In a new manufactured home park or subdivision,
  - c. In an expansion to an existing manufactured home park or subdivision, or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood,

Be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this Section.

- ii. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas that are not subject to the provisions of Section 5.65.2 (D) (b) be elevated so that either;
  - a. The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation, or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 5.65.2 (F) (iv).
- iii. New manufactured home parks of five (5) acres or fifty (50) lots, whichever is less, shall follow the standards of Section 5.65.3 (H).
- iv. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
  - a. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;

- b. Frame ties be provided at each corner of the manufactured home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
- c. Any additions to the manufactured home be similarly anchored.

#### F. Existing Structures

- i. The provisions of this ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to a structure in the floodplain, a floodplain development permit is required and the provisions of 5.65.2 (G) (ii-iii) shall apply.
- ii. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure where the costs of which would equal or exceed fifty (50) percent of the pre-improvement market value shall constitute a substantial improvement and shall fully comply with the provisions of this ordinance.
- iii. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure that will change the compliance requirements of the building shall require applicable documentation including an elevation certificate, flood proofing certificate, or no rise certification.

### 5.65.3. DESIGN AND CONSTRUCTION STANDARDS

#### A. Anchoring

- i. All buildings or structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

#### B. Building Materials and Utilities

- i. All buildings or structures shall be constructed with materials and utility equipment resistant to flood damage. All buildings or structures shall also be constructed by methods and practices that minimize flood and flood-related damages.
- ii. All buildings or structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### C. Drainage

- i. Within Zones AO and AH, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

#### D. Water Supply and Sanitary Sewer Systems

- i. All new or replacement water supply and sanitary sewer systems shall be located, designed, and constructed to minimize or eliminate flood damages to such systems and the infiltration of floodwaters into the systems.
- ii. All new or replacement sanitary sewage systems shall be designed to minimize or eliminate discharge from the system into floodwaters.
- iii. On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during flooding.

#### E. Other Utilities

- i. All other utilities such as gas lines, electrical, telephone, and other utilities shall be located and constructed to minimize or eliminate flood damage to such utilities and facilities.

#### F. Storage of Materials

- i. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
- ii. The storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

#### G. Recreational Vehicles

- i. Recreational vehicles to be placed on sites within the floodplain shall:
  - a. Be on site for fewer than 180 consecutive days;
  - b. Be fully licensed and ready for highway use, which shall mean it is on its wheels or jacking system, is attached to the site by only quick-disconnect type utilities and security devices, and no permanently attached additions; or
  - c. Meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this ordinance.

#### H. Subdivisions

- i. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall require assurance that:
  - a. All such proposals are consistent with the need to minimize flood damage;

- b. All public utilities and facilities such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage;
- c. Adequate drainage is provided so as to reduce exposure to flood hazards; and
- d. Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, where base flood elevation data are not available, shall be supported by hydrologic and hydraulic analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for Conditional Letters of Map Revision and a Letters of Map Revision.

#### **5.66 NONCONFORMING USE**

- A. A structure or use of a structure or premises that was lawful before the passage or amendment of this ordinance, but that is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
  - i. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the floodplain administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
  - ii. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
- B. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, or safety code or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

## 5.67 AMENDMENTS

- A. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in federal, state, or local regulations provided, however, that no such action may be take until after a public hearing in relation thereto, at which citizens and parties in interest shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Village of Pleasanton. At least 10 days shall elapse between the date of this publication and the public hearing.
- B. A copy of such amendments will be provided to the Nebraska Department of Natural Resources and the Federal Emergency Management Agency for review and approval before being adopted.

## 5.68 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application:

**Appurtenant Structure** shall mean a structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. Also shall be known as “accessory structure.”

**Area of Shallow Flooding** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Base Flood** means the flood having one (1) percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation** means the elevation to which floodwaters are expected to rise during the base flood.

**Basement** means any area of the building having its floor subgrade (below ground level) on all sides.

**Building** means “structure.” See definition for “structure.”

**Development** means any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; or obstructions.

**Drainway** means “watercourse.” See definition for “watercourse.”

**Existing Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

**Expansion to an Existing Manufactured Home Park or Subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood or Flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas.

**Flood Fringe** is that area of the floodplain, outside of the floodway, that has a one percent chance of flood occurrence in any one year.

**Flood Insurance Rate Map (FIRM)** means an official map of a community, on which the Flood Insurance Study has delineated the special flood hazard area boundaries and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)** is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.

**Floodplain** means any land area susceptible to being inundated by water from any source (see definition of "flooding"). Floodplain includes flood fringe and floodway. Floodplain and special flood hazard area are the same for use by this ordinance.

**Floodproofing** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.

**Floodway or Regulatory Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Freeboard** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

**Highest Adjacent Grade** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.



**Historic Structure** means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

**Lowest Floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built or modified so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**Manufactured Home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**Manufactured Home Park or Subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**New Construction** for floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**Obstruction** means any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (including the alteration or relocation of a watercourse or drainway), channel rectification, bridge, conduit, culvert, building, stored equipment or material, wire, fence, rock, gravel, refuse, fill, or other analogous structure or matter which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry such structure or matter downstream to the damage or detriment of either life or property. Dams designed to store or divert water are not obstructions if permission for the construction thereof is obtained from the Department of Natural Resources pursuant to the Safety of Dams and Reservoirs Act (Nebraska Revised Statutes 46-1601 to 46-1670 as amended).

**Overlay District** is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

**Post-FIRM Structure** means a building that was constructed or substantially improved after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map dated November 26, 2010, whichever is later?

**Pre-FIRM Structure** means a building that was constructed or substantially improved on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map dated November 26, 2010, whichever is later?

**Principally Above Ground** means that at least 51 percent of the actual cash value of the structure is above ground.

**Recreational Vehicle** means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Flood Elevation** means the base flood elevation (BFE) plus a freeboard factor as specified in this ordinance.

**Special Flood Hazard Area (SFHA)** is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

**Start of Construction** means the date the floodplain development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. "Start of construction" also includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

**Structure** means a walled and roofed building that is principally above ground, as well as a manufactured home and a gas or liquid storage tank that is principally above ground.

**Subdivision** means the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building or lot development.

**Substantial Damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**Variance** is a grant of relief to an applicant from the requirements of this ordinance that allows construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

**Violation** means a failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

**Watercourse** means any depression two feet or more below the surrounding land that serves to give direction to a current of water at least nine months of the year and that has a bed and well- defined banks.

*(Ord. No. 2020-O-06, 08-11-2020)*

## **ARTICLE 6: SPECIAL USE PERMIT**

### **6.1 GENERAL**

The Village Board may authorize by special permit after public hearing, any of the following buildings or uses designated in this Ordinance as permitted special uses.

### **6.2 PROCEDURES**

Such application shall be in writing, filed in the office of the Village Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the governing body. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the Village Board, within thirty (30) days. Upon hearing, the Village Board may approve or deny the application in whole or in part, or prescribe conditions for such use of the property. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the Village Board in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the Village, one time at least ten (10) days prior to such hearing. (Ref. 19-904 R.S. Neb.).

In addition to the publication of the notice herein prescribed, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten (10) days prior to date of each hearing.

Except as otherwise provided herein, no special use permit shall be granted by the Village Board, without an affirmative vote of a majority of all members of the Village Board and unless the proposed use is found to:

1. Be compatible with and similar to the use permitted in the district, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. Be in accordance with the Comprehensive Plan.

In case of protest against such special use permit, signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the side and in the rear thereof extending one hundred (100) feet, therefrom, and of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such special use permit shall not become effective except by the favorable vote of two-thirds of all members of the Village Board.

### **6.3 SALVAGE OR JUNKYARD**

Salvage or junk yard operations and related facilities shall only be allowed by special permit in the AGR and I Zoning Districts under the following conditions:

1. Located on a tract of land at least one-fourth (1/4) mile from a residential or agricultural farm residence.
2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to ensure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.
3. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
4. Any other requirement deemed appropriate and necessary by the Village Board for the protection of the general health and welfare.

In making any decision granting a special use permit, the Village Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.

*(Ord. No. 2022-O-2, 03-08-2022)*

#### **6.4 LANDFILLS AND SANITARY LANDFILLS**

Private landfill operations shall only be allowed by special permit in the AGR Agriculture District upon prior approval of the Nebraska Department of Health and Human Services System and with conformance to the following conditions:

1. Located on a tract of land at least three hundred (300) feet from a residential or agricultural farm residence.
2. The operation shall be conducted wholly within an area completely surrounded on all sides by a fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to ensure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all material within the yard and no material shall protrude above the fence.
3. No material shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
4. Any other requirement deemed appropriate and necessary by the Village Board for the protection of the general health and welfare.
5. Special use permits granted under this section shall be subject to annual review and renewal by the Village Board.

In making any decision granting a special use permit, the Village Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.

*(Ord. No. 2022-O-2, 03-08-2022)*

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## ARTICLE 7: PARKING REGULATIONS

### **7.1 GENERAL PROVISIONS**

1. All buildings and structures erected and all uses of land in all districts established after the effective date of this Ordinance shall provide accessory parking and loading facilities as required under this section.
2. All off-street parking spaces required by this Ordinance shall be located on the same lots as the use it serves.
3. Owners of two or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
4. All yard area including driveways, except the required front yard for residential uses may be used for off-street parking. Garages and driveways may be considered as off-street parking spaces.
5. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be met, shall accompany an application for a building certificate. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.

### **7.2 OFF-STREET PARKING REQUIREMENTS**

At the time of construction, or enlargement of more than 50 percent of an existing structure or building or change in the use of land, off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

	Use	Minimum Number of Parking Spaces
1.	Residential	
	Single family, two-family dwelling	2 per dwelling unit
	Apartments	
	Efficiency and one-bedroom	1 per dwelling unit
	Two-bedrooms	1 ½ per dwelling unit
	Three or more bedrooms	2 per dwelling unit
2.	Mobile Trailer Park	2 per trailer unit
3.	Hotel and Motel	1 per rental unit plus 1 for every 4 employees
4.	Hospitals, nursing homes, rest homes, or similar uses	1 for every 2 ½ patient beds and 1 for each staff and employee on the largest shift

*(Table continued.)*

(Table continued.)

Use		Minimum Number of Parking Spaces
5.	Places of public assembly such as auditoriums, theaters, stadiums, community halls, churches, etc.	1 for every 4 seats
6.	Bowling Alley	2 for each alley
7.	Retail sales department stores, restaurants, taverns, grocery stores, etc.	1 per 200 square feet of floor area as determined by exterior wall dimensions
8.	Professional office establishments	1 per 500 square feet of floor area as determined by exterior wall dimensions
9.	Manufacturing, wholesale warehouse and similar uses	1 for every 2 employees on the largest working shift

### **7.3 OFF-STREET LOADING REQUIREMENTS**

At the time of construction, alteration or enlargement of any structure or building except residences and farms having an aggregate gross floor area of 500 square feet or more, off-street loading areas shall be provided and maintained for all uses as follows:

	Number	Loading Area	Gross Floor Area
1.	One	500 square feet	For every 5,000 to 20,000 square feet
2.	One	500 square feet	For every 20,000 square feet or fraction thereof

## ARTICLE 8: ACCESSORY USES AND SUPPLEMENTAL REGULATIONS

### 8.1 ACCESSORY BUILDING

Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property, or the users thereof, and shall be on the premises of the main use.

Accessory Buildings. Accessory buildings are allowed in residential zoning districts “AGR” and “R-1” in the jurisdictional area subject to the following restrictions:

1. Any accessory building roof shall have a minimum vertical rise of two and one-half (2 ½) inches in each twelve (12) inches of horizontal run.
2. Accessory building design shall be harmonious with the character of the neighborhood. No portion of any accessory building shall be covered with unpainted galvanized metal or corrugated sheets or panels. The use of galvanized tin or "strong barn" exterior walls of accessory buildings shall not be permitted. However, enameled or similar coated exterior walls may be permitted upon review by the Zoning Administrator.
3. Accessory buildings shall not exceed the maximum building coverage and impervious coverage of the zoning district where the building is located.
4. In the “R-1” District, the floor area for each accessory building shall not exceed two-thousand-five-hundred (2,500) square feet, or fifty (50) percent the first-floor area of the principal permitted dwelling, whichever is greater.
5. Accessory buildings shall follow the regulations listed in the matrix below:

Floor Area (Sq. Ft.)	Permit Required	Required Front Yard	Required Side Yard	Required Street Side Yard	Required Rear Yard	Minimum Separation Between Buildings	Maximum Height to Roof Peak
Less than 120	No	25'	5'	15'	10'	5'	12'
120 to 720	Yes	25'	5'	15'	10'	5'	15'
720 to 2000	Yes	25'	10'	25'	20'	10'	20'
More than 2000	Yes	50'	15'	25'	20'	10'	20'

(Ord. No. 2022-O-2, 03-08-2022)

## **8.2 HOME OCCUPATIONS**

An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

The following conditions and restrictions shall apply to such customary home occupations:

- a. The primary use of the building or structure in which the occupation is situated shall clearly be the dwelling used by the person as his private residence.
- b. Signs and displays shall be limited to one (1) non-illuminated sign not exceeding six (6) square feet in area.
- c. No equipment or machinery shall be used in such activities that is perceptible off the premises by reason of noise, smoke, odor, dust, radiation, electrical interference or vibration. Parking shall be handled in such a manner as to not impede or hinder traffic on any public right of way.

## **8.3 MANUFACTURED HOMES:**

All manufactured homes located outside mobile home parks shall meet the following standards:

8.31 The home shall have no less than nine hundred (900) square feet of floor area.

8.32 The home shall have no less than an eighteen (18) foot exterior width.

8.33 The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.

8.34 The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction.

8.35 The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile or rock.

8.36 The home shall have wheels, axles, transporting lights and removable towing apparatus removed.

8.37 Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.

8.38 The home must meet building code requirements adopted by the Village.

## **8.4 YARD REGULATIONS:**

### **8.41 FRONT YARDS:**

The front yards heretofore established shall be adjusted in the following cases:

Where forty percent (40%) or more of the frontage on one side of a street between two intersecting streets is developed and the buildings on this side of a block have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings provided that no building shall be required to have a front yard setback of more than fifty (50) feet.

Where forty percent (40%) or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have a front yard less than the required, new buildings shall not be erected closer to the street than the nearest building on the block.

### **8.42 STRUCTURAL PROJECTIONS:**

The ordinary projections of chimneys and flues, buttresses, eaves, overhangs, open-unenclosed steps or stoops up to 5' in height may extend into required yards for a distance of not more than two (2) feet in the required side yard and not more than five (5) feet in the required front yard.

## **8.5 EXCEPTIONS TO HEIGHT REGULATIONS:**

The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy and agricultural structures.

## **8.6 EXCEPTION TO LOT SIZE REQUIREMENTS:**

If, at the time of passage of this article, a lot or the aggregate of contiguous lots or land parcels held in a single ownership, has a...<sup>1</sup> area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the district subject to the other requirements of the district.

## **8.7 MOBILE HOME PARKS:**

Mobile Home Parks shall only be allowed in the R-3 Zoning District under the following conditions:

1. Individual mobile home lots shall have an area of not less than four thousand (4,000) square feet per single wide mobile home and six thousand (6,000) square feet for double wide mobile homes, and the total number of lots per gross acre shall not exceed six (6).

2. Mobile homes shall be situated on individual lots so there will be a minimum of fifteen (15) feet between mobile homes and that each mobile home will be set back at least fifteen (15) feet from the nearest service road. Mobile homes parked end-to-end shall have an end-to-end clearance of not less than ten (10) feet. Enclosed additions shall be considered a part of the mobile home in measuring required yard distance. The required area for each mobile home space shall not include area required for access or service roads, service buildings, recreation areas, office, and other similar mobile home park needs.
3. The mobile home park shall have direct access to a public street or highway by a right-of-way at least fifty (50) feet in width and a minimum length of one hundred (100) feet to permit the easy entrance and exit from the mobile home park. Service roads shall be provided to each mobile home space. Each service road shall provide for continuous forward movement, shall connect with a street or highway, and shall have a minimum clear width of twenty (20) feet paved with a suitable dustless material.
4. Walks and Lighting. Walkways not less than four (4) feet wide shall be provided from mobile home spaces to the service buildings. All walkways within the park shall be hard surfaced and lighted at night with a minimum illumination of twenty-five (25) watt lamps spaced at intervals of not more than one hundred (100) feet.
5. Off-Street Parking. Two off-street parking spaces for each mobile home space shall be provided at each mobile home space or in group parking. Each off-street parking space shall be at least three hundred (300) square feet.
6. The area of the mobile home stand shall be improved to provide an adequate and approved foundation for the placement and tie-down of the mobile home, thereby securing the super-structure against uplift, sliding, rotation, or overturning.

The mobile home or trailer stand shall be on incombustible materials and shall not shift or settle unevenly under the weight of the mobile home or trailer due to frost action, inadequate drainage, vibration or other forces acting upon the super-structure. The mobile home or trailer stand may be provided by means of a solid concrete footer block (16" x 16" x 4" Minimum) placed on solid uniform soil with at least two (2) standard concrete blocks with cells placed vertically beside each other on the footer block. A solid 4" concrete cap covering the two (2) concrete blocks shall be provided as the bearing area to be positioned directly beneath the steel frame of the mobile home or trailer. Such capping shall be provided along the full length of the mobile home or trailer unit, spaced not more than ten (10) feet apart, and not more than five (5) feet from the ends of the unit.

7. The mobile home or trailer stand shall be provided with anchors and the tie downs such as cast-in-place concrete "dead men", eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home or trailer. The tie-down devices shall be compatible with the foundation system provided for the mobile home or trailer such that the tie-downs are designed to resist the action of frost in the same manner as the foundation system.

8. The skirting of all mobile homes and trailers is required. Such skirting shall not attach a mobile home or trailer permanently to the ground, but shall be sufficient to withstand wind load requirements and shall not provide a harborage for junk or rodents, nor create a fire hazard. Such skirting shall be provided with removable access panels sufficient to provide easy access to all utility connection points of the mobile home or trailer and its subsequent connection to the utility raisers if they are located within the skirted area.

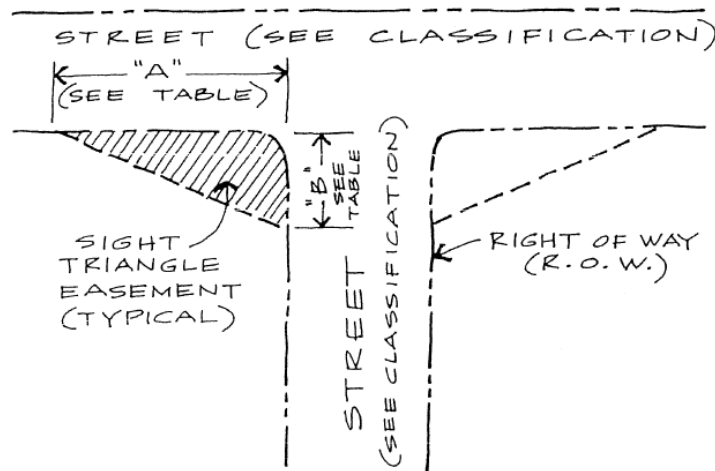
Permit the Creation of Mobile Home Parks in Which the Individual Mobile Home Lots Are Available For Sale.

Wherever a mobile home park is permitted by this Ordinance to be created through the granting of conditional uses, or otherwise, said mobile home park may be designed to permit the sale of the individual mobile home lots within said park. A proposed mobile home park in which the individual mobile home lots will be offered for sale must meet all of the following requirements:

1. The individual mobile home lots shall, for the district within which such mobile home park is located, meet the minimum lot requirements, minimum yard requirements, maximum lot coverage, and maximum height requirements of such districts.
2. Each such mobile home lot shall be individually serviced with all utilities and shall be individually metered for all utilities and treated in all respects by the Village as a separate user of utilities.
3. The developer of such mobile home park shall be required to secure a preliminary and final plat as per the subdivision process outlined in the Village of Pleasanton Subdivision Regulations.
4. At the time of an application for a special use permit, or at the time of the application for subdivision in a mobile home park where the lots are to be offered for sale, the developer shall submit all legal documents necessary for the creation of an association having the purpose of maintaining, controlling, and covering all expenses, taxes and costs incurred on common areas within the mobile home park. Such association shall require that all property owners within the mobile home park be members thereof and pledge the lots owned within the mobile home park as security for the association performing such obligations. Covenants shall be placed on the property by the developer and owners thereof so as to ensure this obligation. These documents shall be submitted by the proper officials to the Village Board for its approval and no subdivision permit or special use permit may be issued without the approval of these documents by the Village Board.

## 8.8 VISIBILITY AT INTERSECTIONS:

Sight Triangle Easement: On a corner lot in all districts, except where buildings have, or are allowed to build on the property line, continuous unobstructed sight distance shall be provided for safe traffic operations. No obstruction, including fences, hedges, walls, shrubbery or other manmade or natural obstructions shall exist between a height of three (3) feet and ten (10) feet within a sight triangle of the following dimensions:



REQUIREMENT BY STREET CLASSIFICATION (MEASURED ALONG R.O.W.)		"B" (DISTANCE IN FEET)		
		LOCAL STREET	COLLECTOR STREET	ARTERIAL STREET
"A" (DISTANCE IN FEET)				
30	LOCAL STREET	30	100	130-150
100	COLLECTOR STREET	30	100	130-150
130-150	ARTERIAL STREET	30	100	130-150

### SIGHT TRIANGLE

Source: The Illustrated Book of Development Definitions, (Maskowitz, Harvey and Carl Lindbloom, 1995).



## **8.9 FENCES, WALLS, AND HEDGES**

Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences, walls, and hedges within the corporate limits of the Village of Pleasanton:

1. It is recommended to have your property surveyed by a licensed surveyor to positively identify and mark your property lines to avoid dispute. Property owners are responsible to locate property pins prior to any permit being issued. The Village of Pleasanton does not mediate disagreements between owners of private property.
2. Permit Holder is responsible for calling Diggers Hotline of Nebraska prior to start of construction. The Permit Holder is responsible for scheduling all required inspections.
3. All fences, walls, and hedges shall be located on the property and not extend beyond the property lines. All setbacks for fences, walls, and hedges must be adhered to as per the zoning district's regulations, if there are different regulations outlined in said zoning district.
  - a. Fences and walls shall not be closer than six (6) inches to any property line.
  - b. Perennial plantings shall not be planted closer than two and one-half (2 ½) feet to any property line.
  - c. No fence shall be closer than two (2) feet to the sidewalk.
4. No fence shall be constructed which will constitute a traffic hazard as identified in the site triangle of a corner lot (see Section 8.8).
5. Fences in a front yard shall contain openings constituting a minimum of fifty (50) percent of the surface area and shall be situated or constructed in such a way as not to obstruct the vehicular traffic or otherwise create a traffic hazard. No component of a front yard fence shall exceed three-and-one-half (3 ½) feet in height, nor shall any structural member exceed thirty-six (36) inches in cross-sectional area.

Zoning District Type	Maximum Height			
	Front Yard	Side Yard	Rear Yard	Site Triangle
<b>Residential<sup>1</sup></b>	3 ½'	6'	6'	2 ½'
<b>Commercial<sup>2</sup></b>	3 ½'	8'	8'	2 ½'
<b>Industrial<sup>2</sup></b>	8'	8'	8'	2 ½'

<sup>1</sup> Fences, walls, and hedges erected on public or parochial school grounds, in public parks, or in public playgrounds may exceed six (6) feet in height.

<sup>2</sup> When industry standards for certain types of businesses require fences of greater heights, the Zoning Administrator, at his discretion, may allow greater heights.

6. The finished side of the fence must face to the outside of the property. Visible supports and other structural components shall face in toward the owner's property.
7. A fence with a minimum height of four (4) feet shall be required around public or private swimming pools. Any gate around a protective fence shall be lockable and maintained in a locked state when the pool is not in use.
8. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals by intent of its construction or by inadequate maintenance.
9. All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.
10. Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning or missing sections, broken supports, non-uniform height, and growing or noxious vegetation. The Village may order any dilapidated, dangerous, or non-conforming fence removed at the owner's expense.
11. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight, or hindering ventilation or which fence shall adversely affect the public health, safety, and welfare.
12. Installation of a fence shall not obstruct any manhole or inlet cover nor disturb or impede existing drainage pattern/swale or natural water flow.
13. Any fence, hedge, or wall shall provide access to utility workers for meter reading and maintenance of the utility.
14. In all Districts, a fence erected on a tract of land subject to an easement for the construction, maintenance, operations, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.
15. Fences shall be constructed of wood, chain-link, PVC/resin, stone or masonry materials, or ornamental metals only. Wood fences shall utilize traditionally accepted residential fence materials.
16. Barbed wire and electrified fences are not permitted within the corporate limits of the Village of Pleasanton. Except barbed wire may be used in the construction of fencing in an industrial district provided that the bottom strand of the barbed wire shall be at least six (6) feet above ground level.

17. All fences, walls, and hedges constructed in the Village of Pleasanton's corporate limits shall comply with the provision of this section and obtain a building permit. These regulations apply only to new construction; any non-conforming fences, unless dilapidated and/or dangerous shall not be affected. No fence shall be erected, constructed, or moved until a fence permit has been procured from the Village. Application for a fence building permit shall include a sketch of the lot, the location of any buildings on the lot, the proposed fence, and sufficient dimensions to accurately locate these features.

*(Ord. No. 2022-O-2, 03-08-2022)*

#### **8.10 SIGN REGULATIONS:**

The following regulations shall govern the location, area and type of signs permitted within the Village:

A. General sign requirements:

1. All signs shall be structurally safe and shall be securely anchored or otherwise fastened, suspended, or supported so that they will not be a menace to the safety of persons or property.
2. No sign, outdoor commercial advertising device or lighting device constituting a nuisance to an adjacent residential District, because of lighting glare, focus, animation or flashing of a sign, lighting or advertising device shall be erected or continued in operation.
3. No "revolving beacon" or strobe lights shall be permitted in any district.
4. No sign in any district shall conflict in any manner with the clear and obvious appearance of public devices controlling public traffic.
5. Ground signs shall not be located on public property except by specific approval of the Village Board.
6. Temporary signs or banners on or over public property may be authorized by the Village Board for a period not to exceed ten days.
7. Signs attached to a building and projecting over a street, alley, or other public space shall project no more than ten feet and be no closer than two feet to a plumbline from curblin; clearance below such signs shall be a minimum of nine feet.

B. Residential districts:

1. One identification sign shall be permitted per residential use provided such sign does not exceed two square feet in area; said sign may be wall, pedestal, ground, or projecting type (but not projecting over public property).
2. One sign of a temporary nature, such as "for sale" or "for rent" shall be permitted per residential use provided such sign does not exceed six square feet and is not lighted; said sign may be wall, pedestal or ground type.

- C. Public or semi-public uses. One identification sign shall be permitted per public or semi-public use provided such sign does not exceed ten square feet in area; said sign may be wall, pedestal, ground, or projecting type.
- D. AGR, C-1, C-2, and I Districts. No restrictions except the general sign requirements of Section 3 above.

## **8.11 CARGO CONTAINERS AND PORTABLE STORAGE CONTAINERS**

All storage containers shall be clean and well maintained. Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to cargo containers and portable storage containers within the corporate limits of the Village of Pleasanton:

### **8.111 CARGO CONTAINERS**

Cargo containers longer than sixteen (16) feet on the longest side are only allowed in commercial and industrial zoning districts subject to the following requirements:

1. Cargo containers may be used as temporary storage; van trailers, and other trailers with attached wheels and/or axles may also be used for temporary storage.
2. Applicants must apply for a permit for temporary use of cargo containers or trailer. Applications shall be available from the Village Clerk. Planning Commission shall approve or deny the application for placement. Applications must state the reason temporary storage is needed.
3. Applications are valid for twelve (12) consecutive months from the time of approval. Applicants may reapply for an additional twelve (12) months prior to expiration of the first approved application.
4. Cargo containers or trailers which remain in place for more than twelve (12) months, without a renewed application, may be impounded by the governing body. Applicants must pay for impounding costs and fees to reclaim the cargo container or trailer.
5. Cargo containers used for temporary purposes may not exceed eight feet six inches (8'6") in width; nine feet six inches (9'6") in height; by fifty-three feet (53') in length. Trailers used for temporary storage may not exceed fifty-three feet (53') in length; eight feet six inches (8'6") in width; and fourteen feet (14') in height.
6. No site preparation or foundation is required for cargo containers or trailers used as temporary storage.
7. Placement of cargo containers for temporary uses shall not interfere with vehicle or pedestrian traffic or any public right-of-way.

### **8.112 PORTABLE STORAGE CONTAINERS**

Portable storage containers sixteen (16) feet and less in length are allowed in residential, commercial, and industrial zoning districts subject to the following requirements:

1. The temporary placement of one (1) portable storage container not to exceed the size dimensions of eight (8) feet wide by eight-and-one-half (8 ½) feet high by sixteen (16) feet long on a residential lot for a time not to exceed ninety (90) days in a twelve (12) month consecutive period. Additional time is subject to approval by the Planning Commission on a case-by-case basis. Additional containers on the same site require approval by the Planning Commission prior to placement.
2. Containers are allowed in the front building setback but shall be placed a minimum distance of five (5) feet from any side or rear property lines. Preferred location is in the driveway of the residence, but in no case shall the container be placed in the street or encroaching on public right-of-way.
3. Signs on any portable storage container shall be limited to not more than twelve (12) square feet each, not to exceed one (1) per side. Signage on the container shall not be used for advertising off-premises businesses other than the company that owns and operates the container business.
4. No sales shall be conducted from a portable storage container.

*(Ord. No. 2022-O-2, 03-08-2022)*

### **8.12 LARGE ANIMAL PETS, LIVESTOCK, AND FOWL**

Large animal pets, livestock, and fowl shall not be permitted inside the corporate limits of the Village of Pleasanton. Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to large animal pets, livestock, and fowl on property located within the Village of Pleasanton's extraterritorial jurisdiction:

1. The property on which the animals are located is zoned AGR – Agricultural Residential District as shown on the Official Zoning Map of the Village of Pleasanton and as described in Section 5.1.
2. Property containing one (1) acre or more may maintain two (2) horses, llamas, or other equine and/or hooved animals and their immature offspring. Such site may have up to one (1) additional animal for each additional acre of dedicated site area, up to a maximum total of fifty (50) animals. Numbers of turkeys, guineas, peacocks, chickens, ducks, game hens, pheasants and similar birds shall not exceed six (6) per acre with a maximum of fifty (50). The number of rabbits shall not exceed fifty (50) animals. Quantities for other species will be determined on a case-by-case basis.
3. The animals are considered a legal nonconforming use of the property in accordance with Section 2.5 of these zoning regulations.

4. No disposal of garbage, rubbish, or offal associated with animal production shall occur within five hundred (500) feet of an existing R-1 Residential Single Family District and shall only be conducted on premises outside the Corporate Limits of the Village.
5. No new commercial feedlots or CAFO (Confined Animal Feeding Operations) shall be established within the zoning jurisdiction of the Village of Pleasanton.

*(Ord. No. 2022-O-2, 03-08-2022)*

## **ARTICLE 9: COMMUNICATION TOWER REGULATIONS**

### **9.1     CONDITIONAL USE PERMIT REQUIREMENT**

Notwithstanding anything to the contrary contained herein, in all instances a Conditional Use Permit which fulfills the minimum and special requirements mentioned herein, must be obtained with the affirmative vote of the Village Board before any radio, television, personal wireless services or facilities may be constructed or operated within the jurisdiction of the Village.

All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the Federal government with the authority to regulate towers and antennas.

### **9.2     MINIMUM REQUIREMENTS.**

The placement of wireless communication antennas or towers must comply with the following requirements:

1. The antennas or tower will not interfere with the purpose for which the property is intended;
2. The antennas or tower will have no significant adverse impact on surrounding private property.
3. The user must obtain all necessary land use approvals and permits.

### **9.3     SPECIAL REQUIREMENTS.**

The placement of wireless telecommunication antennas or towers on water tower sites will be allowed only when the following additional requirements are met:

1. The applicant's access to the facility will not increase the risks of contamination to the City's water supply;
2. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility;
3. The presence of the facility will not increase the water tower or reservoir maintenance cost to the City; and
4. The presence of the facility will not be harmful to the health of workers maintaining the water tower or reservoir.

#### **9.31     PROHIBITED PLACEMENT**

In no case shall towers or antennas be allowed in designated prairie or other conservation or wildlife area unless they are to be installed in areas, which currently contain tower facilities or antennas, and in no case shall towers or antennas be allowed in areas without road access to the base of the tower, antenna support structure or facilities.

### **9.32 SETBACKS**

Tower setbacks shall be measured from the property line of the parcel on which it is located to the base of the tower. The setback shall not be less than one hundred ten percent (110%) of the tower height as measured from the ground level.

### **9.33 COLOR**

Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.

### **9.34 SIGNALS AND LIGHTS**

No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA. No banners or similar devices or materials may be attached to the towers, antenna support structure or antennas.

### **9.35 SCREENING**

Ground level equipment, buildings, and the tower base shall be screened from public streets and residentially zoned properties and shall not encroach in the building setback. Landscaping shall be required to screen as much of the support structure as possible. The City may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

## **9.4 NON-CONFORMING USE**

In the event the use of any tower or antenna has been discontinued for a period of twelve (12) consecutive months, such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located. The operator of the tower or antenna shall dismantle and remove the tower or antenna. If such tower or antenna is not removed within said twelve (12) consecutive months from the date of discontinued use, the Village may remove such tower or antenna, in accordance with applicable law, at the facility owner's expense.

*(Ord. No. 2022-O-2, 03-08-2022)*



## **ARTICLE 10: ENERGY SYSTEM REGULATIONS**

### **10.1 WIND ENERGY SYSTEMS**

#### **10.11 GENERAL STANDARDS.**

All Wind Energy Systems (WES) located within the zoning jurisdiction of the Village of Pleasanton shall conform to the following general standards:

1. Clearance of rotor blades or airfoils for commercial/utility Wind Energy Systems must maintain a minimum of twenty (20) feet of clearance between their lowest point and the ground. Noncommercial WES shall have a minimum clearance of twelve (12) feet between their lowest point and the ground.
2. On site signage shall be limited to identification signs not to exceed six (6) feet and high voltage warning signs.
3. All wind turbines part of a commercial/utility WES shall be installed with a monopole tower.
4. All commercial/utility WES shall obtain a FAA permit and comply with all aviation warning requirements established by the FAA regulations and permit.
5. All commercial/utility WES shall be white, grey or other neutral non obtrusive, non-reflective color. Blades may be black in order to facilitate deicing.
6. All on site communication and transmission feeder lines installed as part of the commercial / utility WES shall be underground.
7. Commercial/utility WES shall not exceed fifty (50) dba at the nearest occupied dwelling.
8. Commercial/utility WES shall obtain FCC permits where necessary and provide evidence of permit approval.
9. The commercial/utility WES, at the time of application for a conditional use, shall identify all county roads to be used for construction and maintenance of a WES. The conditional use applicant shall conduct a road condition survey and written report prior to construction. The conditional use applicant shall be responsible for restoration of the road(s) and bridges to preconstruction standards as established in the report. The applicant shall be responsible for the cost of retaining outside engineering firm(s) to evaluate road condition and cost for restoration if so, determined by the Planning Commission.
10. The commercial/utility WES applicant shall be responsible for immediate repair of damage to drainage or irrigation systems stemming from construction, operation or maintenance of the WES.
11. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as oils, lubricants and solvents shall be removed from the site promptly and disposed of in accordance with all applicable local, State and Federal regulations.

12. A commercial/utility WES shall provide a decommissioning plan to the Village Board at the time the application is made. The plan shall include the method or means of removing the WES and accessory facilities, parties responsible for removal and site cleanup, evidence of a damage insurance liability policy, schedule for removal not to exceed ninety (90) days from approval of the plan. The applicant shall set aside three-fourths (3/4) of one percent (1%) of each tower's cost for future decommissioning upon approval of the application by the Village Board. The funds are to be placed in a cash escrow account with a local bank.
13. A Conditional Use Permit for a commercial/utility WES shall be reviewed each year on the anniversary of issuance. A Conditional Use Permit for a commercial/utility WES shall be considered null and void if the WES has not begun within one (1) year following issuance of the WES Conditional Use Permit or produced energy for one (1) year, unless a plan is submitted to the Planning Commission outlining the steps and schedule for returning the WES to service.
14. A contractual agreement referred to as a Developers Agreement between the Village Board and the commercial WES developer shall be created and made part of the Conditional Use Permit. The agreement shall detail road improvements, road reconstruction, additional right-of-way needs, location of transmission lines, easements, bond and payment requirements.

#### **10.12 NONCOMMERCIAL WIND ENERGY SYSTEMS.**

All noncommercial wind energy systems located within the zoning jurisdiction of the Village of Pleasanton shall conform to the following standards:

1. Shall be systems installed to provide for full or partial onsite consumption of utility supplied electricity.
2. Setbacks: Where allowed, Noncommercial WES shall be located in the rear yard of any Residential Districts; further, all towers shall adhere to the setbacks found in Table 2 within this Chapter.
3. Tower Height: In all districts except the Agricultural District tower heights shall not exceed thirty (30) feet. Any tower exceeding thirty (30) feet shall be required to submit an application for conditional use. In the Agricultural District there is no height limitation except that imposed by FAA regulations.
4. Noncommercial WES shall not exceed fifty (50) dba, as measured at the closest neighboring inhabited dwelling unit. Temporary exceptions may include severe wind storms or power outages requiring higher demand.
5. Compliance with this Ordinance:
  - a. All noncommercial WES will require a permit.

- b. Permit application will include an engineered drawing showing compliance with nationally recognized building codes. The permit shall include standard drawings of the tower structure, turbine structure, footings, guy wire anchors and a professional engineers stamp.
- c. Evidence of notification to the servicing utility informing the utility that the noncommercial WES will be connected to the utilities grid.
- d. Evidence that noncommercial WES, when located within one thousand three hundred and twenty (1,320) feet of any waters of the United States, has complied with the requirements found in Checklist 1 below.

### **10.13 METEOROLOGICAL TOWERS**

All meteorological towers located within the zoning jurisdiction of the Village of Pleasanton shall conform to the following standards:

- 1. Shall be towers which are erected primarily to measure wind speed, direction, and record other data relevant to the site of a commercial WES.
- 2. Meteorological towers shall be sited according to Table 1 within this Chapter.
- 3. Meteorological towers shall be a conditional use and follow the same process as outlined in this Ordinance
- 4. Meteorological towers, permanent or temporary, in excess of two hundred (200) feet in height, shall meet all FAA requirements and shall be required to apply for a permit prior to construction. Meteorological towers less than two hundred (200) feet in height shall have the guy wires clearly marked with devices common to overhead transmission lines and shall be required to apply for a permit prior to construction.
- 5. Setbacks: All meteorological towers shall adhere to the setbacks established in Table 2 below.

### **10.14 COMMERCIAL/UTILITY WIND ENERGY SYSTEMS**

All commercial/utility wind energy systems located within the zoning jurisdiction of the Village of Pleasanton shall conform to the following standards:

- 1. Commercial/utility WES shall be permitted as conditional uses within the districts as seen in Table 1 below.
- 2. The request for a Conditional Use Permit shall include the following:
  - a. Name(s) of project applicant.
  - b. Name(s) of project owner.
  - c. Legal description of the project.
  - d. Documentation of land ownership or lease of the property.

- e. Site plan showing property lines, setbacks, proposed accessory buildings, wind turbine locations, transmission lines, adjacent subdivisions, homes or other structures, county and service roads, legend and scale, signature of surveyor or engineer.
- f. Narrative description of the project including number, type, generating capacity, tower height, rotor diameter, total height of all wind turbines including meteorological towers, height of transmission lines and capacity, lastly proposed users of project.
- g. Overview map of the area showing topography, location of WES owned or not owned by the applicant, public or private airfields within one mile of the proposed WES and other communication towers.
- h. An acoustical report that certifies the WES will meet the noise requirements of this ordinance.
- i. Evidence that other tower owners or lessees have been notified of the proposed WES and there will not be interference in communications.
- j. An Environmental Assessment Worksheet shall be prepared by a qualified environmental engineering firm when a commercial WES is located within avian migratory routes. The Environmental Assessment Worksheet shall contain an avian assessment, map of the migratory routes and recommended mitigation practices.
- k. A decommissioning plan as required by this Ordinance.
- l. Meteorological and commercial/utility towers located within one (1) mile of any waters of the United States shall submit an Environmental Assessment Worksheet from the U.S. Environmental Protection Agency. Further a Conditional Use Permit shall not be issued until the applicant has completed Checklist 2 below.
- m. There shall be a flicker/strobe effect study provided.

3. Aggregated Projects:

- a. Aggregated projects may be jointly submitted as a single application and reviewed as a single application, including public notices, public hearing and subsequent approvals or denials.
  - b. Permits may be issued and recorded separately.
  - c. Aggregated projects proposed shall be considered conditional uses and follow the requirements of this Ordinance.
4. Joint projects will be assessed as one project.
5. Setbacks: All commercial/utility towers shall adhere to the setbacks found in Table 2 below.

### **CHECKLIST 1: Small Wind Energy Systems**

<input type="checkbox"/>	U.S. Fish and Wildlife Service
<input type="checkbox"/>	Nebraska Game and Parks Commission
<input type="checkbox"/>	Nebraska State Historical Society
<input type="checkbox"/>	Nebraska Public Power District
<input type="checkbox"/>	Village of Pleasanton Utilities

### **CHECKLIST 2: Commercial Wind Energy Systems**

<input type="checkbox"/>	U.S. Fish and Wildlife Service
<input type="checkbox"/>	U.S. Army Corps of Engineers
<input type="checkbox"/>	Nebraska Department of Aeronautics/Federal Aviation Agency (FAA)
<input type="checkbox"/>	Nebraska Game and Parks Commission
<input type="checkbox"/>	Nebraska State Historical Society
<input type="checkbox"/>	Nebraska Department of Natural Resources
<input type="checkbox"/>	Nebraska Department of Transportation
<input type="checkbox"/>	Nebraska Public Power District
<input type="checkbox"/>	Village of Pleasanton Utilities

**TABLE 1: Permitted Towers by District**

<b>Zoning District</b>	<b>Meteorological Tower</b>	<b>Non-Commercial WES</b>	<b>Commercial/Utility WES</b>
<b>AGR Agriculture Residential</b>	Conditional Use	Conditional Use	Conditional Use
<b>R-1 Residential Single Family</b>	Not Permitted	Not Permitted	Not Permitted
<b>C-1 General Commercial</b>	Not Permitted	Not Permitted	Not Permitted
<b>C-2 Highway Commercial</b>	Conditional Use	Conditional Use	Not Permitted
<b>I Industrial</b>	Permitted	Conditional Use	Conditional Use

**TABLE 2: Tower Dimension Regulations**

<b>Minimum Setbacks<sup>1</sup></b>	<b>Meteorological Tower</b>	<b>Non-Commercial WES</b>	<b>Commercial/Utility WES</b>
<b>Property Lines</b>	1.1 × tower height	1.1 × tower height	Greater of ½ blade × diameter or 150'
<b>All Road Right-of-Ways<sup>2</sup></b>	1.1 × tower height	1.1 × tower height	Greater of ½ blade × diameter or 150'
<b>Other Public or Private Utility Easements</b>	1.1 × tower height	1.1 × tower height	Greater of ½ blade × diameter or 150'
<b>Public and Private Airfields</b>	Per FAA regulations	Per FAA regulations	Per FAA regulations
<b>Irrigation Canals</b>	1.1 × tower height	1.1 × tower height	Greater of ½ blade × diameter or 150'

<sup>1</sup> The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a common Wind Energy System.

<sup>2</sup> The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-way is known.

## **10.2 SOLAR ENERGY SYSTEMS**

### **10.21 DEFINITIONS**

**Battery Back-Up.** A battery system that stores electrical energy from a solar PV system, making the electricity available for future use. Battery Back-Up systems are common in Off-Grid Systems and Hybrid Systems.

**Combiner or Junction Box.** Combines the inputs (electrical flows) from multiple strings of solar panels (or micro-inverters) into one output circuit.

**Crystalline Silicon Cells.** Solar photovoltaic cells fashioned from either mono-crystalline, multi-crystalline, or ribbon silicon capable of converting sunlight into electricity. Crystalline silicon solar PV panels are the most commonly used and are generally the most efficient.

**Distributed Solar.** For the purposes of this Ordinance, distributed solar refers to solar energy systems located on-site and designed to provide solar thermal energy or solar PV electricity to a property owner, occupant, and/or facilities.

**Grid-tied Solar.** A solar PV system that is interconnected with the utility grid via net metering and interconnection agreements with the utility.

**Electricity Generation (aka production, output).** The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).

**Electrical Equipment.** Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended on-site structure.

**Grid-tied Solar Photovoltaic Systems** (aka grid-tied PV, on-grid, grid-connected, utility-interactive, grid-intertied, or grid-direct). Solar photovoltaic electricity generation systems designed to serve the electricity needs of the building to which it is connected, thus offsetting the electricity usage of a home or business. Any excess electricity generated is sent to the electric utility grid, credited via a customer's net metering agreement with their local utility. Grid-tied are typically installed without battery back-up system to store electricity. As such, these systems provide no power during an outage. Typical system components: PV panels, inverter(s), and required electrical safety gear.

**Ground-Mount System.** A solar energy system that is directly installed on specialized solar racking systems, which are attached to an anchor in the ground and wired to connect to an adjacent home or building. Ground-mount systems may be applicable when insufficient space, structural and shading issues, or other restrictions prohibit rooftop solar.

**Hybrid Solar Photovoltaic Systems** (aka grid-tied PV with battery back-up). Solar photovoltaic electricity generation systems designed to serve the electricity needs of the building to which it is connected, thus offsetting the electricity usage of a home or business, while also utilizing a battery back-up in the event of a power outage. This is the only system that provides the ability to have power when the utility grid is down. Typical system components include: PV panels, inverter(s), and required electrical safety gear, battery bank, and a charge controller.

**International Residential Code (IRC).** Part of the International Building Code (IBC), the IRC sets buildings standards for residential structures.

**Inverter.** A device that converts the Direct Current (DC) electricity produced by a solar photovoltaic system is converted to useable alternating current (AC).

**Kilowatt (kW).** Equal to 1000 Watts; a measure of the use of electrical power.

**Kilowatt-hour (kWh).** A unit of energy equivalent to one kilowatt (1 kW) of power expended for 1 hour of time.

**Mounting.** The manner in which a solar PV system is affixed to the roof or ground (i.e. roof mount, ground mount, pole mount).

**Megawatt (MW).** Equal to 1000 Kilowatts; a measure of the use of electrical power.

**Megawatt-hour (MWh).** A unit of energy equivalent to one Megawatt (1 MW) of power expended for 1 hour of time.

**National Electric Code (NEC).** Sets standards and best practices for wiring and electrical systems.

**Net Meter.** On-grid solar PV systems connected to the utility grid use a net meter, typically provided and installed by the local utility, to measure the flow of electricity from the solar system for the purposes of net metering.

**Net Metering.** A billing arrangement that allows customers with grid-connected solar electricity systems to receive credit for any excess electricity generated on-site and provided to the utility grid.

**Off-Grid Solar Photovoltaic Systems with Battery Back-up.** Solar photovoltaic electricity systems designed to operate independently from the local utility grid and provide electricity to a home, building, boat, RV (or remote agricultural pumps, gates, traffic signs, etc.). These systems typically require a battery bank to store the solar electricity for use during nighttime or cloudy weather (and/or other back-up generation). Typical system components include: PV panels, battery bank, a charge controller, inverter(s), required disconnects, and associated electrical safety gear.

**Orientation (or Azimuth).** In the northern hemisphere, true solar south is the optimal direction for maximizing the power output of solar PV. Although, systems can be oriented east, southeast, southwest, and west, while still providing 75%-85% of maximum production, depending on the tilt. Proper orientation and access to sun are critical for achieving maximum energy production potential (ideally, the orientation of the solar energy system ensures that solar access is not obstructed by other buildings, shade trees, chimneys, HVAC systems, or other equipment).

**Passive Solar.** Techniques, design, and materials designed to take advantage of the sun's position throughout the year (and the local climate) to heat, cool, and light a building with the sun. Passive solar incorporates the following elements strategically to maximize the solar potential of any home or building (namely, maximizing solar heat gain in winter months and minimizing solar heat gain in summer months to reduce heating/cooling demand; and maximizing the use of daylighting to reduce demand for electricity for lighting): strategic design and architecture, building materials, east-west and building lot orientation, windows, landscaping, awnings, ventilation

**Photovoltaic (PV) System.** A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight. A PV system may be roof-mounted, ground-mounted, or pole-mounted.

**Pole-Mount Systems.** A solar energy system that is directly installed on specialized solar racking systems, which are attached to pole, which is anchored and firmly affixed to a concrete foundation in the ground, and wired underground to an attachment point at the building's meter. Unlike ground-mount systems, pole-mount systems are elevated from the ground. Pole-mounted systems can be designed to track the sun (with single-axis or dual-axis tracking motors) and maximize solar output throughout the year.



**Power.** The rate at which work is performed (the rate of producing, transferring, or using energy). Power is measured in Watts (W), kilowatts (kW), Megawatts (MW), etc.

**PV-Direct Systems.** The simplest of solar photovoltaic electric systems with the fewest components (no battery back-up and not interconnected with the utility) designed to only provide electricity when the sun is shining. Typical system components include: PV panels, required electrical safety gear, and wiring.

**Racking.** Solar energy systems are attached securely and anchored to structural sections of the roof-mounted or pole-mounted systems. Specially designed metal plates called flashings prevent leaks and are placed under shingles and over bolts to create a water-tight seal.

**Roof-Mount System** (aka rooftop mounted, building mounted). A solar energy system consisting of solar panels are installed directly on the roof of a home, commercial building, and/or an accessory structure, such as a garage, pergola, and/or shed. Solar panels are mounted and secured using racking systems specifically designed to minimize the impact on the roof and prevent any leaks or structural damage. Roof-mount systems can be mounted flush with the roof or tilted toward the sun at an angle.

**Solar Access.** the ability of one property to continue to receive sunlight across property lines without obstruction from another's property (buildings, foliage or other impediment). Solar access is calculated using a sun path diagram.

**Solar Array.** Multiple solar panels combined together to create one system.

**Solar Collector.** A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation electricity or transfer of stored heat.

**Solar Easement.** An easement recorded pursuant to U.C.A. §§ 57-13-1 and 57-13-2, the purpose of which is to secure the right to receive sunlight across the real property of another for the continued access to sunlight necessary to operate a solar energy system. According to Utah law, parties may voluntarily enter into written solar easement contracts that are enforceable by law. An easement must be created in writing and filed, duly recorded and indexed in the office of the recorder of the county in which the easement is granted. A solar easement, once created, runs with the land and does not terminate unless specified by conditions of the easement.

**Solar Energy System.** A system capable of collecting and converting solar radiation into heat or mechanical or electrical energy and transferring these forms of energy by a separate apparatus to storage or to point of use, including, but not limited to, water heating, space heating or cooling, electric energy generation, or mechanical energy generation. This definition shall include Solar Thermal, Photovoltaic, and Passive Solar Systems.

**Solar Glare.** The potential for solar panels to reflect sunlight, with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**Solar Photovoltaic (Solar PV) System.** Solar systems consisting of photovoltaic cells, made with semiconducting materials, that produce electricity (in the form of direct current (DC)) when they are exposed to sunlight. A typical PV system consist of PV panels (or modules) that combine to form an array; other system components may include mountain racks and hardware, wiring for electrical connections, power conditioning equipment, such as an inverter and/or batteries. For the purposes of this Ordinance, a solar PV system is defined as generating capacity of not more than 25 kilowatts for residential facilities and not more than two megawatts for non-residential facilities. [Solar PV systems larger than this are governed by another Ordinance]

**Solar Panel (or module).** A device for the direct conversion of sunlight into useable solar energy (including electricity or heat).

**Solar Process Heat Technologies.** These provide industrial specific applications, including ventilation air preheating, solar process heating, and solar cooling.

**Solar-Ready.** The concept of planning and building with the purpose of enabling future use of solar energy generation systems. Solar-ready buildings, lots, and developments make it easier and more cost-effective to utilize passive solar techniques and adopt active solar technologies in the future. Solar-Ready Buildings are built anticipating future installation of active solar energy systems (including structural reinforcement, pre-wiring or plumbing for solar, and east-west building orientation). Solar-Ready Lots are oriented to take maximal advantage of a location's solar resource. Solar-Ready Developments expand this concept to entire subdivisions.

**Solar Thermal System** (aka Solar Hot Water or Solar Heating Systems). A solar energy system that directly heats water or other liquid using sunlight. Consist of a series of tubes that concentrate light to heat either water or a heat-transfer fluid (such as food-grade propylene glycol, a non-toxic substance) in one of two types of collectors (flat-plate collectors and evacuated tube collectors). The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

**Thin Film Solar PV.** Capable of generating electricity from the sun, thin film solar PV cells consist of layers of semiconductor materials (made from amorphous silicon, cadmium telluride, copper indium gallium diselenide, among other materials) a few micrometers thick, which allow for greater flexibility. Thin film is made by depositing one or more thin layers of photovoltaic material on a substrate; products include rooftop shingles and tiles, building facades, the glazing for skylights, and other building integrated materials.

**Tilt.** The angle of the solar panels and/or solar collector relative to their latitude. The optimal tilt to maximize solar production is perpendicular, or 90 degrees, to the sun's rays at true solar noon. True solar noon is when the sun is at its highest during its daily east-west path across the sky (this is also known as 0° Azimuth). Solar energy systems can be manually or automatically adjusted throughout the year. Alternatively, fixed-tilt systems remain at a static tilt year-round

**Watts (W).** A measure of the use of electrical power (power (Watts) = voltage (volts) X current (Amps)).

**Wiring.** Specified by electrical codes, solar PV system wires are routed from the panels or micro-inverters through conduit into the inverter and buildings meter.

## **10.22 APPLICABILITY**

1. This ordinance applies to all distributed solar systems installed and constructed after the effective date of this Ordinance. For purposes of this Ordinance, “solar energy system” means a distributed solar energy system as defined herein.
2. Solar energy systems constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance.
3. All solar energy systems shall be designed, erected, and installed in accordance with applicable local, state, utility, and national codes, regulations, and standards.

## **10.23 SOLAR ENERGY SYSTEM REQUIREMENTS**

1. To the extent practicable, and in accordance with other district regulations, the accommodation of solar energy systems and associated electrical equipment, and the protection of access to sunlight for such, shall be encouraged in the application of the various review and approval provisions of these zoning regulations.
2. Solar energy systems are permitted as a conditional use in both R-1 Single Family Residential Districts and R-2 Multi-Family Residential Districts only on accessory structures, as well as C-1 General Commercial Districts. Solar energy systems are permitted outright in both R-1 Single Family Residential Districts and R-2 Multi-Family Districts only on primary structures. A-1 Agricultural Districts, C-2 Highway Commercial Districts, and I-1 Industrial Districts.
3. A solar energy system shall provide power for the principal use and/or accessory use of the property on which the solar energy system is located.
4. If active solar panels are installed on any dwelling or accessory structure constructed on any lot zoned R-1 Single Family or R-2 Multi Family, they shall be flush with the roof or the sidewall of the dwelling or accessory structure and shall not be located in any yard. Any installed solar panels must remain in operation. If solar panels are not operational, they must be removed at the owner’s expense.
5. The installation and construction of a roof-mount solar energy system shall be subject to the following development and design standards:
  - a. A roof or building mounted solar energy system may be mounted on a principal or accessory building.

- b. Any height limitations outlined in these regulations shall not be applicable to solar collectors provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties.
- c. Placement of solar collectors on flat roofs shall be allowed by right provided that panels do not extend horizontally past the roofline.
- d. The installation and construction of a ground-mount or pole-mount solar energy system shall be subject to the following development and design standards:
  - e. The height of the solar collector and any mounts shall not exceed 20 feet when oriented at maximum tilt.
  - f. The surface area of a ground- or pole-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
  - g. The minimum solar energy system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.
  - h. All power transmission lines from a ground mounted solar energy system to any building or other structure shall be located underground and/or in accordance with the building electrical code, as appropriate.
- 6. All electrical equipment associated with and necessary for the operation of solar energy systems shall comply with the following:
- 7. Electrical equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district.
- 8. Solar panels are designed to absorb (not reflect) sunlight; and, as such, solar panels are generally less reflective than other varnished or glass exterior housing pieces. However, solar panel placement should be prioritized to minimize or negate any solar glare onto nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar system.
- 9. A solar energy system shall not be used to display permanent or temporary advertising, including signage, streamers, pennants, spinners, reflectors, banners or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the solar energy system provided they comply with the prevailing sign regulations.
- 10. A solar energy system shall not be constructed until a building/zoning permit has been approved and issued.

## **10.24 SAFETY AND INSPECTIONS**

1. The design of the solar energy system shall conform to applicable local, state and national solar codes and standards. A building permit reviewed by department staff shall be obtained for a solar energy system. All design and installation work shall comply with all applicable provisions in the National Electric Code (NEC), the International Residential Code (IRC), International Commercial Building Code, State Fire Code, and any additional requirements set forth by the local utility (for any grid-connected solar systems).
2. The solar energy system shall comply with all applicable Pleasanton Ordinances and Codes so as to ensure the structural integrity of such solar energy system. Please note that the existing roof structure and the weight of the solar energy system shall be taken into consideration when applying for a solar energy system permit.
3. Prior to operation, electrical connections must be inspected by an appropriate electrical inspection person or agency, as determined by the Village of Pleasanton.
4. Any connection to the public utility grid must be approved by the appropriate public utility.
5. If solar storage batteries are included as part of the solar collector system, they must be installed according to all requirements set forth in the National Electric Code and State Fire Code when in operation. When no longer in operation, the batteries shall be disposed of in accordance with the laws and regulations of the Village of Pleasanton and any other applicable laws and regulations relating to hazardous waste disposal.
6. Unless otherwise specified through a contract or agreement, the property owner of record will be presumed to be the responsible party for owning and maintaining the solar energy system.

## **10.25 ABANDONMENT AND REMOVAL**

1. If a ground mounted solar energy system is removed, any earth disturbance as a result of the removal shall be landscaped in accordance with building code.
2. A ground or pole-mounted solar energy system is considered abandoned or defective if it has not been in operation for a period of twelve (12) months. If abandoned, the solar energy system shall be repaired by the owner to meet federal, state, and local safety standards, or be removed by the owner within the time period designated by a Building Code Official. If the owner fails to remove or repair the defective or abandoned solar energy system, the Village of Pleasanton may pursue a legal action to have the system removed at the owner's expense.

## **10.26 SOLAR-READY ZONING**

1. New structures will, to the extent possible and insofar as practical, be situated on the lot to take advantage of solar access, including the orientation of proposed buildings with respect to sun angles, the shading and windscreen potential of existing and proposed vegetation on and off the site, and the impact of solar access to adjacent uses and properties.
2. To permit maximum solar access to proposed lots and future buildings, wherever reasonably feasible and where consistent with other appropriate design considerations, new streets shall be located on an east-west axis to encourage building siting with the maximum exposure of roof and wall area to the sun.
3. Tree-planting programs shall take into account the impact of street trees on the solar access of surrounding properties and, where possible, efforts shall be made to avoid shading possible locations of solar collectors.
4. When the Planning Commission reviews and acts upon applications for subdivision approval or site plan approval, it shall take into consideration whether the proposed construction would block access to sunlight between the hours of 9:00 am and 3:00 pm Central Standard Time for existing ground-mount, pole-mount, or roof-mount solar energy collectors or for solar energy collectors for which a permit has been issued.
5. Where reasonable and appropriate, new subdivisions should be platted so as to preserve or enhance solar access for either passive or active systems, consistent with the other requirements of the building code.
6. The plan for development of any site within cluster subdivisions shall be designed and arranged in such a way as to promote solar access for all dwelling units. In order to maximize solar access, the higher density dwelling units should be placed on a south-facing slope and lower-density dwelling units sited on a north-facing slope. Subject to the setback requirements in these regulations, structures should be sited as close to the north lot line as possible to increase yard space to the south for reduced shading of the south face of a structure. A tall structure should be sited to the north of a short structure.
7. Solar-Ready zoning should be considered as one among multiple considerations in planning new developments.

*(Ord. No. 2022-O-2, 03-08-2022)*

## **ARTICLE 11: BOARD OF ZONING ADJUSTMENT**

### **11.1 CREATION, MEMBERSHIP**

The Village Board of Zoning Adjustment is hereby created and shall be known as the Village Board of Zoning Adjustment. The members of said board shall be appointed by the Village Board. The legislative body of a village may provide by ordinance that it shall constitute a board of adjustment. (Ref. 19-911 R.S. Neb.)

One (1) member only of said board shall be appointed from membership of the Planning Commission and the loss of membership on the planning commission by such member shall also result in the immediate loss of membership on the Village Board of Zoning Adjustment.

Said board 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 (3) years and removable for cause by the Village Board upon written charges and after public hearings. Vacancies shall be filled for the unexpired terms of any member whose terms becomes vacant.

### **11.2 MEETINGS**

Meetings of the Board of Zoning Adjustment shall be held at the call of the Mayor and at such times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Village Clerk and shall be a public record.

### **11.3 INTERPRETATIONS AND VARIANCES**

**11.31** The Board of Adjustment shall, subject to appropriate conditions and safeguards as specified in these regulations, have the following powers (Ref. 23-168.01 R.S. Neb.):

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 planning commission based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
2. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any maps, or for decisions upon other special questions upon which the Board is authorized by any such regulation to pass; and

3. here by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of the Zoning 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 enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these zoning regulations, but no such variance shall be authorized unless the Board finds that:
  - a. The strict application of the regulation would produce undue hardship;
  - b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
  - c. 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
  - d. 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.

**11.32** No variance shall be authorized unless the Board 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 reasonable and practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

**11.33** In exercising the above-mentioned powers such Board may, in conformity with the provisions of said sections, 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 shall be proper, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the board 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 any such regulation or to affect any variation in such regulation.

*(Ord. No. 2022-O-2, 03-08-2022)*



#### **11.4 PROCEDURES FOR REQUESTING A VARIANCE**

The procedures to be followed by the Board of Zoning Adjustment shall be as follows.

9.41 Appeals to the Board may be taken by any person aggrieved or by any officer, department, governmental agency affected by any decision of the zoning administrator. Such appeal shall be made within ten (10) days from the date of decision by any official or department. The appeal filed in writing shall define the appeal being requested and the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the Board of Zoning Adjustment all the paper constituting the record upon which the action appealed from was taken.

9.42 The Chairperson of the Board shall set a hearing within thirty (30) days of receipt of the appeal. The time, date, place of the hearing, and description of the request shall be published in a local newspaper of general circulation ten (10) days prior to the actual hearing. The Board shall also notify the interested parties in the case of the hearing date, time and place.

#### **11.5 APPEALS FROM THE BOARD OF ZONING ADJUSTMENT**

Any person or persons, jointly or separately, aggrieved by any decision of the Board of Zoning Adjustment, or any officer, departments, board or bureau of the Village, may seek review of such decision by the district court for the Village in the manner provided by the laws of the State and particularly by Section 23-168.04.

## **ARTICLE 12: ADMINISTRATIVE PROVISIONS, ENFORCEMENT AND FEES**

### **12.1 ENFORCEMENT**

#### **12.11 ZONING ADMINISTRATOR:**

This ordinance shall be enforced and administered by a Zoning Administrator who shall be appointed by the Village Board and who may be provided with the assistance of such other persons as the Village Board may direct in order to carry out the following duties and responsibilities:

1. Approve and issue all building permits and occupancy certificates when compliance is made with this ordinance.
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this ordinance.
3. Receive, file and forward to the Board of Zoning Adjustment the records in all appeals for variances.
4. Maintain permanent and current records of the Zoning Ordinance including but not limited to, all zoning maps, amendments, special use permits, variances, appeals and applications thereof and records of hearings thereon.
5. Prepare and have available in book, pamphlet or map for each year.
  - a. The compiled text of the Zoning Ordinance and amendments thereto, including all amendments adopted through the preceding December 31; and
  - b. A zoning map or maps, showing the zoning districts, divisions and classifications in effect on the preceding December 31.
6. Whenever the Zoning Administrator shall find that any of the provisions of this ordinance have been or are being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she may order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, structures or additions or alterations thereto; discontinuance of any illegal work being done; or take any other appropriate action authorized by this ordinance to ensure compliance with, or to prevent violation of, its provisions.

*(Ord. No. 2022-O-2, 03-08-2022)*

## **12.2 BUILDING PERMITS REQUIRED**

### **12.21 GENERAL:**

No building or other structure shall be erected, moved, added to, or structurally altered without a building permit first having been issued by the Zoning Administrator. No building permit shall be issued unless the proposed construction or use is in conformance with all of the provisions of this ordinance and with all other applicable codes, regulations and laws of the Village of Pleasanton and with all orders, and variances lawfully issued by the Board of Adjustment. A building permit shall not be required for agricultural (nonresidential) buildings or structures in the AGR Agricultural Districts or for improvements which have a value of one thousand dollars (\$1,000) or less. Construction must begin within ninety (90) days of issuance of the permit. The building permit will be valid for a period of two (2) years.

### **12.22 APPLICATION FOR BUILDING PERMIT:**

All applications for a building permit shall be accompanied by a plot plan showing the location, ground area, height and bulk of all present and proposed structures, additions, parking areas and site improvements; the actual dimensions and shape of the lot lines; the uses to be built upon; the building lines in proposed structures or additions; and any other reasonable and pertinent information as may be required by the Zoning Administrator or the proper enforcement of this ordinance.

### **12.23 APPROVAL OR DISAPPROVAL OF PERMIT:**

The Zoning Administrator shall examine all applications for building permits, including plans, specifications and documents filed therewith and shall either approve or disapprove such application within thirty (30) days of receipt of same. Upon approval and receipt of required fees, the Zoning Administrator shall promptly issue the building permit and shall affix his/her signature to the permit and the plans and mark the plans "Approved." Upon disapproval of the application, the Zoning Administrator shall refuse to issue the permit and shall state in writing on the plans the reasons for disapproval, affix his/her signature and mark the plans "Disapproved."

### **12.24 APPEAL FROM APPROVAL OR DISAPPROVAL:**

An appeal from approval or disapproval of any application shall be made to the Board of Zoning Adjustment in writing within ten (10) days after the determination of the Zoning Administrator has been filed.

## **12.3 CERTIFICATION OF OCCUPANCY REQUIRED**

### **12.31 GENERAL:**

No building, structure or land shall be used or occupied, in whole or in part, nor shall any change made in the use or type of occupancy of an existing building or structure requiring a building permit, nor shall any change be made in the use of land, except to any use which is primarily agricultural, unless a certificate of occupancy shall be issued by the Zoning Administrator in accordance with this ordinance.

### **12.32 TEMPORARY CERTIFICATE:**

Upon request, the Zoning Administrator may issue a partial certificate of occupancy for a period not to exceed ninety (90) days, for a building or structure or part thereof, before the entire work covered by the building permit shall have been completed, provided such portion or portions as have been completed may be occupied safely without endangering life or the public welfare.

### **12.33 APPLICATION FOR CERTIFICATE OF OCCUPANCY:**

All applications for certificate of occupancy shall be made by the owner or his/her agent and shall be accompanied by an affidavit of the owner, registered architect, licensed professional engineer, or superintendent of construction who shall state that he has examined the approved plans of the structure, that said structure has been erected in accordance with the approved plans and that it complies with this ordinance and all local code and resolutions/ordinances governing building construction. The application and affidavit shall be filed with the Zoning Administrator.

### **12.34 ISSUANCE OF CERTIFICATE OF OCCUPANCY:**

Before issuing a certificate of occupancy, the Zoning Administrator shall examine all buildings, structures or sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish, or change the use or occupancy. The Zoning Administrator shall maintain a record of all examinations and inspections, together with a record of findings of violations of the law.

### **12.35 EFFECTIVE PERIOD OF CERTIFICATE OF OCCUPANCY**

A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect so long as such building or land is used as authorized in the certificate of occupancy.

*(Ord. No. 2022-O-2, 03-08-2022)*

## **12.4 SCHEDULE OF FEES**

The schedule of fees shall be established for this Zoning Ordinance by the Village Board. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the Village Board. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

## **ARTICLE 13: AMENDMENT**

### **13.1 GENERAL**

The Village Board may from time to time supplement, change or generally revise the boundaries or regulations contained in this ordinance. A proposal for such amendment may be initiated by the Village Board, Planning Commission or upon application of the owner of the property affected. A filing fee established by the Village Board is required for each application to be considered by the Planning Commission.

### **13.2 SUBMISSION TO PLANNING COMMISSION**

All such proposed amendments shall first be submitted to the Planning Commission for recommendation and report. Upon the development of tentative recommendations, the Planning Commission shall hold a public hearing thereon and shall cause an accurate written summary to be made of proceedings, and shall give notice in like manner as that required for the original zoning recommendations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary of any district.

If such proposed amendment is not a general revision of an existing provision of this ordinance, and will affect specific property, it shall be designated by legal description and general street location and in addition to such publication notice, written notice of such proposed amendment shall be mailed to all owners of lands located within three hundred (300) feet of the area proposed to be altered and an opportunity granted to interested parties to be heard.

### **13.3 AMENDMENT CONSIDERATION AND ADOPTION**

The procedure for the consideration and adoption of any such proposed amendments shall be in like manner as that required for the consideration and adoption of the ordinance except herein before or herein after modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half( $\frac{1}{2}$ ) of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the Village Board, if it approves such recommendation, may either adopt such recommendation by ordinance or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the Village Board may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning commission which the Village Board disapproves, the said governing body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval, and such recommendation shall be considered in like manner as that required for the original recommendation returned to the Planning Commission. If such amendment shall affect the boundaries of any district, the ordinance shall define the change or the boundary as amended, shall order the Official Zoning Map(s) to be changed to reflect such amendment, and shall amend the section of the ordinance incorporating the same and reincorporate such Map as amended.

#### **13.4   PROTEST**

Regardless of whether or not the Village Board approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the Village Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the Village Board.

## **ARTICLE 14: COMPLAINTS, PENALTIES, REMEDIES**

### **14.1 COMPLAINTS REGARDING VIOLATIONS**

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

### **14.2 PENALTIES**

The owner or agent of a building or premises in or upon which a violation of any provisions of this ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a misdemeanor. Each and every day that such violation continues after notification shall constitute a separate offense.

Nothing herein contained shall prevent the Village from taking such other lawful action as is necessary to prevent or remedy any violation.

### **14.3 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 these regulations the appropriate authorities of the Village may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

## **ARTICLE 15: LEGAL STATUS PROVISIONS**

### **15.1 SEPARABILITY**

Should any article, section or provisions of these regulations be declared by the courts to be unconstitutional or invalid, such decisions 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.

### **15.2 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 these regulations.

### **15.3 REPEAL OF CONFLICTING ORDINANCES**

All other ordinances and regulations in conflict with this ordinance are hereby repealed to the extent necessary to give these regulations full force and effect.

### **15.4 EFFECT DATE**

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