

**ORDINANCE NO. 5730**

**AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, AMENDING ORDINANCE NO. 5427 AS IT PERTAINS TO UNIFIED DEVELOPMENT CODE UPDATE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council for the City of Fremont, Nebraska, seeks to promote the health, safety, morals, and the general welfare of the community; and

**WHEREAS**, the firm RDG Planning & Design was contracted to prepare an update to the Fremont Unified Development Code, and;

**WHEREAS**, the request is consistent with the Comprehensive Plan; and,

**WHEREAS**, a public hearing on the proposed Zoning Change was held by the Planning Commission on October 20, 2025, at which time they voted 6-1 to recommend approval, and;

**WHEREAS**, a public hearing on the proposed Unified Development Code Update was held by the City Council on October 28, 2025; and

**WHEREAS**, the City has determined that such proceedings were in compliance with Neb. Rev. Stat. §19-904 pertaining to zoning regulations and restrictions;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREMONT, NEBRASKA, AS FOLLOWS:**

**The 2025 Unified Development Code Update, City of Fremont, Dodge County, Nebraska.**

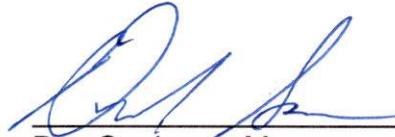
**SECTION 1. UNIFIED DEVELOPMENT CODE.** That the attached Exhibit A, 2025 Unified Development Code Update be adopted in full.

**SECTION 2. REPEALER.** That the Unified Development Code referred to by Ordinance No. 5427 or any other section of said ordinance in conflict with this ordinance is hereby repealed.

**SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall take effect and be in force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED THIS 25<sup>th</sup> DAY OF NOVEMBER, 2025



Dev Sookram, Mayor

ATTEST:



Michael Chatterson, City Clerk



# Article 1. General Provisions

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## 11-101. Preamble to the Unified Development Code

- A. The City of Fremont has updated its Unified Development Code and all citizens, businesses, and other entities operating within the jurisdiction of the City of Fremont are required to follow the Code. The City of Fremont is legally exempt from the regulations and standards set forth within the Code. The City of Fremont recognizes its leadership role in the community and the importance of leading by example. This shall apply to all departments of the City of Fremont. The City of Fremont desires to act in an open and transparent manner and will endeavor to adhere to this Unified Development Code. The City of Fremont may deviate from the Code when the City of Fremont determines that it is in the best interest of its residents, and in such instances the City of Fremont will follow the appeals process of the Unified Development Code.

## 11-102. Title; Short Title.

- A. **Title.** The title of this document shall be known as the "Unified Development Code" of the City of Fremont ("the City").
- B. **Short Title.** The "Unified Development Code" of the city may also hereinafter be referred to as the "UDC" or "these regulations".

## 11-103. Purpose.

- A. The provisions of these regulations are enacted to protect the public health, safety, morals, and general welfare of the community in accordance with the latest adopted version of the City's comprehensive plan, as amended from time to time. The provisions of these regulations are specifically intended to:

1. Protect public health and safety, resiliency, and environmental quality by:

- a. Ensuring greater public safety, convenience, and accessibility through the physical design and location of land uses;
  - b. Minimizing losses due to destruction by nature or acts of God; and
  - c. Allowing for the orderly and timely reconstruction of property damaged by nature or acts of God.
2. Protect the quality of life of the city's residents, business owners, employees, and visitors by:
    - a. Promoting a balanced, diverse supply of affordable, quality housing located in safe and livable neighborhoods;
    - b. Ensuring the provision of adequate open space for light, air, and fire safety;
    - c. Preserving and enhancing the character and quality of existing, stable neighborhoods;
    - d. Allowing for reinvestment in existing neighborhoods; and
    - e. Enhancing the visual character and attractiveness of the city through regulation of site and building design, as well as the enforcement of property maintenance regulations.
  3. Promote the city's economic opportunities by:
    - a. Embracing the vitality of existing businesses and development of future employers in the city; and
    - b. Encouraging the efficient use of available land in the city.
  4. Protect the fiscal and functional health of the city by:
    - a. Fostering convenient, compatible, and efficient relationships among land uses;
    - b. Encouraging mixed-use development and a compact pattern of growth;
    - c. Preserving and enhancing property values; and
    - d. Promoting a balanced supply of residential, commercial, and industrial land uses.

#### **11-104. Jurisdiction.**

- A. The provisions of the UDC shall be applicable to all property within the corporate limits of the City of Fremont and within two miles adjacent to the corporate limits as provided by Nebraska Revised Statutes ("NRS", or "Neb. Rev. Stat."), § 19-901 to 19-929, as amended from time to time.

#### **11-105. Conflicting provisions.**

- A. This UDC shall be interpreted to establish the minimum requirements for the promotion of the public health, safety, and welfare. If any provision of this UDC conflicts with any other provision of this UDC, any other ordinance of the City, or any applicable state or federal law, the more restrictive provision shall apply unless it is preempted.

#### **11-106. Consistency with Comprehensive Plan.**

- A. The City intends for this UDC and any amendments to it to be consistent with the comprehensive plan, as amended from time to time, and, it is the City's intent to amend these regulations whenever such action is deemed necessary to keep regulatory provisions in conformance with these plans.

**11-107. Publishing and filing.**

- A. These regulations shall be published in pamphlet and electronic forms and shall, together with the maps being a part of these regulations, be filed with the City Clerk.

**11-108. Effective date.**

- A. The effective date is the effective date set forth in the ordinance establishing and adopting the same.

**11-109. Pending applications.**

- A. Each application for development approval shall be evaluated by the regulations that were in effect at the time the application was submitted.

**11-110. Development approvals that predate these regulations.**

- A. **Generally.** It is the intent of the city to respect existing development approvals. Approved development plans may be carried out within the scope of the approved plans, including applicable standards in effect at the time of approval, provided that the approval was valid and has not exceeded the duration of approval in effect at the time of approval.
- B. **Duration of Approvals.** Development approvals that were valid on the effective date of these regulations for which a duration of approval was not specified, shall become invalid in accordance with the duration of approval specified.
- C. **Scope of Approvals.** This section shall not be interpreted to confer rights upon an applicant or an applicant's property that is not set out within the approved documents associated with each permit.

**11-111. Prior conditions of approval.**

- A. **Generally.** Conditions of development approvals that were granted prior to the effective date of these regulations remain in force, regardless of the standards of these regulations.
- B. **Modification or Elimination of Conditions.** Conditions of approvals that were imposed prior to the effective date of these regulations may be modified or eliminated pursuant to new applications that meet the procedures and standards of these regulations.

**11-112. Existing violations.**

- A. **Generally.** Any violations of previous versions of any code or ordinance of the City shall continue to be a violation under this UDC and shall be subject to the penalties and enforcement set forth in the UDC.
- B. **Fines and Penalties.** Payment of fines shall be required for any civil penalty assessed under the previous regulations, even if the original violation is no longer considered a violation under these regulations.

**11-113. Private restrictions (covenants).**

- A. **Generally.** These regulations do not abrogate private restrictions that affect the use, development, or maintenance of property. Only the provisions of this UDC will be enforced on property located within the City and its extra-territorial jurisdiction.
- B. **No Duty to Search for, Interpret, or Enforce Private Restrictions.** Unless the city is a party to them, it will not take any of the following actions:

1. Search for the existence of private restrictions;
  2. Interpret private restrictions; or
  3. Enforce private restrictions.
- C. **No City Liability.** The City may adopt policies and procedures to assist parties seeking information regarding the existence of private restrictions, but shall not be held accountable regarding the accuracy or completeness of such information.

## Article 2. Establishment of Districts

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### 11-201. Zoning Districts Established

The Zoning Districts set forth below are hereby established.

#### A. Base Zoning Districts.

- |   |  |
|---|--|
| 1. R-L: Lake and River Residential District     | 10. GC: General Commercial District          |
| 2. R-A: Acreage Residential District            | 11. FC: Flex Commercial District             |
| 3. R-1: Low Density Residential District        | 12. LI: Light Industrial District            |
| 4. R-2: Low/Medium Density Residential District | 13. GI: General Industrial District          |
| 5. R-3: Medium Density Residential District     | 14. PA: Port Authority District              |
| 6. R-4: High Density Residential District       | 15. AG: Agriculture District                 |
| 7. MH: Manufactured Home Neighborhood District  | 16. PSP: Public/Semi-Public District         |
| 8. DC: Downtown Commercial District             | 17. PDL: Planned Development Legacy District |
| 9. NC: Neighborhood Commercial District         |  |

#### B. Overlay Zoning Districts.

1. HP-O: Historic Preservation Overlay District
2. NC-O: Neighborhood Conservation Overlay District
3. MUR-O: Mixed Use Redevelopment Overlay District
4. PD-O: Planned Development Overlay District
5. A-O: Airport Overlay District
6. F-O: Flood Plain Overlay District
7. WP-O: Wellhead Protection Overlay District

## 11-202. Purpose and Intent of Base Zoning Districts

### A. Residential Districts.

1. **General Purpose.** The residential districts are designed to:
  - a. Achieve the residential objectives of the Comprehensive Plan,
  - b. Protect the character of residential areas by excluding inharmonious commercial and industrial activities,
  - c. Achieve a suitable environment for families by permitting in residential areas appropriate neighborhood facilities and services, such as noncommercial places of assembly,
  - d. Preserve openness of the living areas and avoid overcrowding by requiring minimum yards, open spaces, lot areas, and by limiting the bulk of structures,
  - e. Permit a variety of dwelling types and densities to meet the varying needs of Fremont households, and
  - f. Control the density of residential development to facilitate the planning for an economical provision of streets, utilities, and other public facilities.
2. **R-L: Lake and River Residential District.** The R-L District includes residential and recreational uses. Residential uses in this district are low density and generally about a body of open water. This district provides a transition between the waterfront and environmentally sensitive areas and more urban development. The purpose of the district is to accommodate existing and new low density residential waterfront development; preserve the natural character and environment surrounding the Platte River and lakes; minimize development impact in flood hazard areas.
3. **R-A: Acreage Residential District.** The R-A District includes rural estates three (3) acres or larger in size with single-family detached homes. The purpose of the district is to preserve the existing rural character of land near the boundary of the City.
4. **R-1: Low Density Residential District.** The R-1 District includes neighborhoods that consist primarily of single-family detached homes, but can include duplexes in low density settings. The purpose of the district is to preserve the character of existing low density neighborhoods; provide opportunities for attainable housing; promote infill development; and accommodate new neighborhoods.
5. **R-2: Low/Medium Density Residential District.** The R-2 District includes neighborhoods that consist primarily of single-family homes, duplexes, rowhomes and small multi-family buildings in a low density setting. The purpose of the district is to preserve the character of existing low density neighborhoods; allow a variety of appropriate housing options that complement the character of existing neighborhoods; provide opportunities for attainable housing; promote infill development; and accommodate new neighborhoods.
6. **R-3: Medium Density Residential District.** The R-3 District includes a mix of housing types that feature single-family homes, duplexes, rowhomes, and multi-family buildings integrated into a neighborhood in a seamless manner. The housing mix in this category is contextual to the neighborhood and appropriate in character and scale, providing “missing middle” housing options. The purpose of the district is to accommodate a mix of single-family homes with medium density duplexes, townhomes, and multifamily buildings in the city; support affordable housing options; provide a transition from lower density residential to higher density residential, commercial, and light industrial uses; and promote infill development.
7. **R-4: High Density Residential District.** The R-4 District is a higher density residential district that includes single-family detached dwellings, duplexes, rowhomes and multi-family apartment buildings and complexes. The purpose of the district is to accommodate multifamily development in the city; increase housing density in key areas; provide a range of housing options; and provide a transition between lower density residential and commercial and light industrial uses.

8. **MH: Manufactured Home Neighborhood District.** The MH District includes pre-existing manufactured home parks and the opportunity for new manufactured home subdivisions. Manufactured home parks are existing land areas held under single ownership in which manufactured home plots are leased to manufactured homeowners or renters. Manufactured home subdivisions are akin to traditional single-family subdivisions where lots and homes are owned by the same household. The purpose of the district is to accommodate and promote reinvestment in existing manufactured home parks and support the development of new manufactured home subdivisions in strategic locations.

**B. Commercial Districts.**

1. **General Purpose.** The commercial districts are designed to:
- a. Achieve the commercial objectives of the Comprehensive Plan,
  - b. Meet the needs for commercial services and goods of the city,
  - c. Preserve and promote the development of efficient commercial facilities and encourage a compatible relationship between commercial facilities and other land uses and the roadway system by:
    - I. Differentiating the types and purposes of commercial activities,
    - II. Establishing bulk and area controls,
    - III. Requiring off-street loading and parking facilities,
    - IV. Controlling the number, area, location, and types of signs, and
    - V. Protecting the character of commercial districts and their suitability for commercial uses.
  - d. Protect areas for commercial development and the generation of property tax revenue from the encroachment of nontaxable bodies including non-commercial places of assembly as defined in this UDC.
2. **DC: Downtown Commercial District.** The DC District includes Downtown Fremont, centered along North Main Street. The purpose of the district is to provide a pedestrian oriented mixed-use environment; maximize development potential; accommodate higher density residential; provide a density of residents to support the economic health and activity of the Downtown; and promote infill development.
3. **NC: Neighborhood Commercial District.** The NC District includes low-intensity, small scale retail, service, eating and drinking, and office uses in proximity to residential neighborhoods. The purpose of the district is to serve the day-to-day needs of area residents; ensure compatibility between nonresidential and residential uses; and promote infill and redevelopment.
4. **GC: General Commercial District.** The GC District includes mid- to high-intensity, mid- to large-scale retail, service, eating and drinking, lodging, and office uses along major corridors. The purpose of the district is to serve the day-to-day shopping commercial needs of the city and region; provide a transition between higher intensity and larger scale nonresidential uses and residential neighborhoods; promote infill and redevelopment; and accommodate new commercial development.
5. **FC: Flex Commercial District.** The FC District includes a mix of uses that are oriented to service and storage businesses with limited retail or manufacturing activities. Typical uses include equipment repair, equipment sales, contractors, and landscape services. Outdoor storage, a fleet of service vehicles and machinery are common characteristics. These uses are generally located away from arterial streets, and are typically near the GC, LI, or GI Districts and areas that can be adequately buffered from residential neighborhoods. The purpose of the district is to provide a transition between lower intensity residential, commercial and/or industrial uses; and concentrate heavy commercial uses in areas with close proximity to transportation corridors.

**C. Industrial Districts.**

1. **General Purpose.** The industrial districts are designed to:
  - a. Achieve the industrial objectives of the Comprehensive Plan,
  - b. Meet the needs for industrial services and goods of the city.
  - c. Preserve and promote the development of efficient industrial areas and to minimize the adverse effects of industrial uses on other land uses and the roadway system by:
    - I. Differentiating the types and purposes of industrial activities,
    - II. Establishing bulk and area controls,
    - III. Requiring off-street loading and parking facilities,
    - IV. Controlling the number, area, location, and type of signs, and
    - V. Protecting the character of industrial districts and their peculiar suitability for industrial uses.
  - d. Protect areas for industrial development and the generation of property tax revenue from the encroachment of nontaxable bodies including non-commercial places of assembly as defined in this UDC.
2. **LI: Light Industrial District.** The LI District includes facilities involved in the manufacturing and processing of goods and materials, distribution, storage, and similar intensity uses. Light industrial uses have minimal noise or nuisance impact on surrounding areas and should be clustered together in industrial parks. The purpose of the district is to accommodate small scale manufacturing and production; concentrate low impact industrial uses in locations as identified by the Comprehensive Plan with good transportation access; and provide a transition between the GI District and lower intensity districts.
3. **GI: General Industrial District.** The GI District includes large scale uses that involve resource production, processing, heavy manufacturing, and/or extraction. These uses may have environmental, noise, visual, and other impacts on adjacent areas. The purpose of the district is to accommodate heavy industrial production and processing; concentrate high intensity industrial uses in key locations as identified by the Comprehensive Plan with access to transportation; attract potential employment generating development; and encourage separation from other uses.
4. **PA: Port Authority District.** The PA District includes heavy manufacturing, warehousing, multi-modal distribution, and transportation. The purpose of this district is to create industrial and commercial hubs in an area that serves as a regional merging point for multi-modal transportation and the distribution of goods.

**D. Miscellaneous Districts.**

1. **AG: Agriculture District.** The AG District includes lands used for crop production, livestock, and other farming-related activities. This district also includes scattered homestead residential development on large acreages. The purpose of the district is to preserve the city's agricultural heritage; allow for the continuation of crop production, livestock, and other farming-related activities; minimize flood hazard by preventing higher intensity development in flood hazard areas; and to accommodate agritourism related uses and activities.
2. **PSP: Public/Semi-Public District.** The PSP District includes local government uses, public schools, municipal facilities, utilities, public and private parks and recreation areas, and noncommercial places of assembly as defined in this UDC. The purpose of the district is to accommodate existing and future public/semi-public uses and preserve public parks and open space.

3. **PDL: Planned Development Legacy District.** The PDL District includes properties that have been previously zoned as a "planned development district" and are governed by a unique set of regulations as set forth in the specific planned development ordinance. Properties zoned in the Legacy Planned Development District will continue to operate under their specific planned unit development ordinance. No property may be rezoned into the Legacy Planned Development District after the date of the adoption of this article.

### 11-203. Purpose and Intent of Overlay Districts

- A. **HP-O: Historic Preservation Overlay District.** The HP-O District enables the adoption of special performance and development standards in combination with site development regulations of a base district for properties or areas of special historical or architectural significance within the city. The district recognizes the importance of historically and architecturally significant properties and areas to the character of Fremont and provides for their conservation.
- B. **NC-O: Neighborhood Conservation Overlay District.** The NC-O District is established to promote the conservation of existing neighborhood character by supporting redevelopment of and reinvestment in nonconforming residential lots. To support redevelopment and reinvestment, the overlay district provides flexibility in the application of base district bulk and dimensional standards.
- C. **MUR-O: Mixed Use Redevelopment Overlay District.** The MUR-O District is established to support the redevelopment of aging commercial corridors where existing lot size does not accommodate modern development. To support redevelopment, the overlay district provides flexibility in the application of base district bulk and dimensional standards as well as in allowed uses.
- D. **PD-O: Planned Development Overlay District.** The PD-O District visually represents areas of the community that are governed by Planned Development Ordinances as detailed in Article 8 of this UDC. The purpose of the overlay district is to ensure that site development allowances requested through the planned development process are based on the standards of the underlying base zoning district.
- E. **A-O: Airport Overlay District.** The A-O District is hereby established for the purpose of ensuring that development within the areas of the city that are impacted by the Fremont Municipal Airport operations are compatible with the function and operations of the airport.
- F. **F-O: Floodway and Flood Fringe Overlay District.** The F-O District is established to promote the public health, safety, and general welfare and to minimize those losses described in Subsection 11-406.A.2: *Findings of Fact*, by applying the provisions of these regulations to: 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; require that uses vulnerable to floods, including public facilities that service such uses, be provided with flood protection at the time of initial construction; 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; and assure that eligibility is maintained for property owners in the community to purchase flood insurance from the National Flood Insurance Program.
- G. **WP-O: Wellhead Protection Overlay District.** The purpose of the WP-O District is to assist operators of public water supply systems in providing protection for wells through regulation of land uses which have the potential for contamination of the groundwater sources serving the wells.

## 11-204. Official Zoning Map

- A. **Generally.** Districts are shown on the map entitled "Official Zoning Map of the City of Fremont" (referred to hereinafter as "official zoning map" or "zoning map"), which is attached hereto and made part of this UDC. An official copy of the zoning map is on file and available for inspection during regular business hours at the office of the city clerk.
- B. **Force and Effect.** The zoning map, together with all legends, references, symbols, boundaries, and other information, shall be adopted as a part of, and concurrent with this UDC.
- C. **Status of the Zoning Map.** The zoning map that is on file at the department shall control in the event of a conflict between the map that is on file and any other reproduction of the zoning map.
- D. **Changes.** The City Council may from time to time adopt a new official zoning map, which shall supersede the prior zoning map, in the event that the zoning map becomes damaged or destroyed, for purposes of clarity due to a number of boundary changes, or to correct drafting errors or omissions. However, such adoption shall not have the effect of amending the UDC or any subsequent amendment thereof.
- E. **Interpreting the Zoning Map.** Where the zoning map appears to be unclear regarding the location of district boundaries, the Planning Director shall make a determination using the criteria listed in subsections 1-8 below. The person requesting the Zoning Map interpretation may appeal the Planning Director's determination per Section 11-1002: *Zoning Procedures Responsibilities*.
1. **Rights-of-Way or Easements.** Where boundary lines appear to follow existing streets, alleys, railroad tracks, utility lines, or similar features, the zoning boundary shall be construed to follow the center line of the rights-of-way or easement. Where the location of these features on the ground differs from that shown on the zoning map, the features on the ground control.
  2. **Corporate Limits.** Where district boundaries are indicated as approximately following corporate limits, such corporate limits shall be considered the district boundaries.
  3. **Section Lines.** Where district boundaries are indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines, such lines shall be considered the district boundaries.
  4. **Property Lines.** Where the boundaries are indicated as approximately following property or other lot lines, such lines shall be construed to be the boundaries.
  5. **Watercourses.** Boundaries shown as following, or approximately following, the centerline of drainage ways, streams, water bodies, or other watercourses shall be construed as following the channel centerline. In the event of a natural change in the location of such streams or other watercourses, the district boundary shall be construed as moving with the channel centerline.
  6. **Unsubdivided Land or No Identifiable Feature.** On unsubdivided land, or where a district boundary follows no identifiable feature, the location of the boundary, unless the same is indicated by dimensions, shall be determined by applying, in order, the following rules:
    - a. **Legal Description.** The boundary shall be according to the legal description in the ordinance establishing the district boundaries.
    - b. **Text Dimensions.** The boundary shall be located by reference to dimensions shown in the text on the zoning map, if any.
  7. **Map Scale.** The boundary shall be located using the map scale appearing on the zoning map.
  8. **Conflicts Resolved.** In the event of a conflict between the district boundaries on the zoning map and the zoning of property provided by a duly enacted rezoning ordinance adopted before the effective date of this UDC, the zoning map shall control.

## Article 3. Base District Specific Standards

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### 11-301. Bulk and Dimensional Standards

- A. **AG District Bulk and Dimensional Standards.** Table 11-301(A) establishes the bulk and dimensional requirements for development or use of a lot in the AG: Agriculture District.

Table 11-301(A): AG District Bulk and Dimensional Standards	
Standard	All Uses
<i>Lot Standards (Minimum)</i>	
Lot Area (acres)	20
Lot Width (ft)	500
<i>Yard Setbacks</i>	
Front, Minimum (ft)	100
Front, Maximum (ft)	N/A
Street Side, Minimum (ft)	100
Interior Side, Minimum (ft)	15
Rear, Minimum (ft)	50
<i>Building Standards (Maximum)</i>	
Height (ft)	35
Impervious Surface Coverage	3%
1. Farmstead subdivision may be allowed to subdivide an existing house from the agricultural property provided: <ol style="list-style-type: none"> <li>The farmstead with the house contains a minimum of three (3) acres and has direct access to a road.</li> <li>The minimum frontage of the farmstead lot is two hundred fifty (250) feet</li> <li>The remaining parcel is twenty (20) acres</li> <li>The above setbacks and building standards are met.</li> </ol>	

- B. **R-L District Bulk and Dimensional Standards.** Table 11-301(B) establishes the bulk and dimensional requirements for development or use of a lot in the R-L: Lake and River Residential District.

<b>Table 11-301(B): R-L District Bulk and Dimensional Standards</b>	
<b>Standard [1] [2]</b>	<b>All Uses</b>
<i>Lot Standards (Minimum)</i>	
Lot Area (sq ft)	15,000
Lot Width (ft)	100
<i>Yard Setbacks (Minimum)</i>	
Front (ft)	30
Street Side (ft)	15
Interior Side (ft)	10
Rear (ft)	20
<i>Building Standards (Maximum)</i>	
Height (ft)	35
Building Coverage	30%
Impervious Surface Coverage	40%
<i>Notes</i>	
[1] Developments on leased land without lots are subject to homeowner association requirements	
[2] New R-L Districts must be connected to City sewer, a private sewer system, or have a septic/holding tank if the lot size is adequate for septic system and distance from wells	

- C. **R-A District Bulk and Dimensional Standards.** Table 11-301(C) establishes the bulk and dimensional requirements for development or use of a lot in the R-A: Acreage Residential District.

<b>Table 11-301(C): R-A District Bulk and Dimensional Standards</b>	
<b>Standard</b>	<b>All Uses</b>
<i>Lot Standards (Minimum)</i>	
Lot Area (acres)	3
Lot Width (ft)	250
<i>Yard Setbacks (Minimum)</i>	
Front (ft)	100
Street Side (ft)	100
Interior Side (ft)	15
Rear (ft)	50
<i>Building Standards (Maximum)</i>	
Height (ft)	35
Building Coverage	5%
Impervious Surface Coverage	10%

D. **R-1 District Bulk and Dimensional Standards.** Table 11-301(D) establishes the bulk and dimensional requirements for development or use of a lot in the R-1: Low Density Residential District.

<b>Table 11-301(D): R-1 District Bulk and Dimensional Standards</b>			
<b>Standard</b>	<b>Use</b>		
	<b>Single-Family Detached</b>	<b>Duplex/Attached Single-Family [1]</b>	<b>All Other Uses</b>
<i>Lot Standards (Minimum)</i>			
Lot Area (sq ft)	8,000	5,000 [2]	10,000
Lot Width (ft)	55	35 [2]	50
<i>Yard Setbacks (Minimum)</i>			
Front (ft)	25	25	25
Street Side (ft)	15	15	15
Interior Side (ft)	7	10 [3]	10
Rear (ft)	20	20	20
<i>Building Standards (Maximum)</i>			
Height (ft)	35	35	35
Building Coverage	45	45%	40%
Impervious Surface Coverage	55%	55%	60%
<i>Notes</i>			
[1] Duplexes/Attached Single Family are only permitted when previously approved on a Preliminary Plat			
[2] Per unit			
[3] Setback shall be zero (0) feet along lot lines with a shared wall			

- E. **R-2 District Bulk and Dimensional Standards.** Table 11-301(E) establishes the bulk and dimensional requirements for development or use of a lot in the R-2: Low/Medium Density Residential District.

<b>Table 11-301(E): R-2 District Bulk and Dimensional Standards</b>					
<b>Standard</b>	<b>Use</b>				
	<b>Single-Family Detached</b>	<b>Duplex/ Attached Single-Family</b>	<b>Rowhome</b>	<b>Multifamily</b>	<b>All Other Uses</b>
<i>Lot Standards (Minimum)</i>					
Lot Area (sq ft)	6,000	3,250 [1]	3,250 [1] [2]	2,000 [1]	10,000
Lot Width (ft) [5]	45	30 [1]	25 [1] [3]	90	50
<i>Yard Setbacks (Minimum)</i>					
Front (ft)	25	25	25	25	30
Street Side (ft)	15	15	15	15	15
Interior Side (ft)	5	5 [4]	5 [4]	5	10
Rear (ft)	20	20	20	20	20
<i>Building Standards (Maximum)</i>					
Height (ft)	35	35	35	35	35
Building Coverage	45%	45%	45%	45%	45%
Impervious Surface Coverage	55%	55%	55%	55%	55%
<i>Notes</i>					
[1] Per unit					
[2] End units shall have a minimum lot size of three thousand five hundred (3,500) square feet					
[3] End units shall have a minimum lot width of thirty (30) feet					
[4] Setback shall be zero (0) feet along lot lines with a shared wall					
[5] Lots with less than thirty (30) feet of width at the property line shall be served by a shared driveway					

F. **R-3 District Bulk and Dimensional Standards.** Table 11-301(F) establishes the bulk and dimensional requirements for development or use of a lot in the R-3: Medium Density Residential District.

<b>Table 11-301(F): R-3 District Bulk and Dimensional Standards</b>					
<b>Standard</b>	<b>Use</b>				
	<b>Single-Family Detached</b>	<b>Duplex/Attached Single-Family</b>	<b>Rowhome</b>	<b>Multifamily</b>	<b>All Other Uses</b>
<i>Lot Standards (Minimum)</i>					
Lot Area (sq ft)	4,000	2,500 [1]	2,000 [1] [2]	1,500 [1]	10,000
Lot Width (ft) [5]	40	25 [1]	20 [1] [3]	80 [6]	50
<i>Yard Setbacks (Minimum)</i>					
Front (ft)	20	20	20	20	30
Street Side (ft)	10	10	10	10	10
Interior Side (ft)	5	5 [4]	5 [4]	5	10
Rear (ft)	15	15	15	15	20
<i>Building Standards (Maximum)</i>					
Height (ft)	35	35	35	35	35
Building Coverage	45%	45%	50%	50%	50%
Impervious Surface Coverage	45%	55%	60%	60%	60%
<i>Notes</i>					
[1] Per dwelling unit					
[2] End units shall have a minimum lot size of three thousand (3,000) square feet					
[3] End units shall have a minimum lot width of thirty (30) feet					
[4] Setback shall be zero (0) feet along lot lines with a shared wall					
[5] Lots with less than thirty (30) feet of width at the property line shall be served by a shared driveway					
[6] Per every four (4) dwelling units					

G. **R-4 District Bulk and Dimensional Standards.** Table 11-301(G) establishes the bulk and dimensional requirements for development or use of a lot in the R-4: High Density Residential District.

Table 11-301(G): R-4 District Bulk and Dimensional Standards					
Standard	Use				
	Single-Family Detached	Duplex /Attached Single-Family	Rowhome	Multifamily	All Other Uses
<i>Lot Standards (Minimum)</i>					
Lot Area (sq ft)	3,000	2,000 [1]	1,500 [1]	1,500 [1]	10,000
Lot Width (ft) [4]	30	20 [1]	20 [1] [2]	60	50
<i>Yard Setbacks (Minimum)</i>					
Front (ft)	20	20	20	20	30
Street Side (ft)	10	10	10	10	10
Interior Side (ft)	5	5 [3]	5 [3]	5	10
Rear (ft)	15	15	15	15	20
<i>Building Standards (Maximum)</i>					
Height (ft)	35	35	35	45	45
Building Coverage	45%	45%	55%	55%	55%
Impervious Surface Coverage	55%	55%	65%	65%	65%
<i>Notes</i>					
[1] Per dwelling unit					
[2] End units shall have a minimum lot width of thirty (30) feet					
[3] Setback shall be zero (0) feet along lot lines with a shared wall					
[4] Lots with less than thirty (30) feet of width at the property line shall be served by a shared driveway					

H. **MH District Bulk and Dimensional Standards.** Table 11-301(H) establishes the bulk and dimensional requirements for development or use of a lot in the MH: Manufactured Home Neighborhood District.

<b>Table 11-301(H): MH District Bulk and Dimensional Standards</b>	
<b>Standard</b>	<b>Use</b>
	<b>All Uses</b>
<i>Lot Standards (Minimum)</i>	
Lot Area of Total Site	Ten (10) acres minimum and sixty (60) acres maximum; at least a total average area of three thousand (3,000) sq ft per unit
Lot Width	100
<i>Yard Setbacks at Site Boundaries (Minimum)</i>	
Front (ft)	20
Street Side (ft)	20
Interior Side (ft)	5
Rear (ft)	15
<i>Building Standards across the Site (Maximum)</i>	
Height (ft)	35
Building Coverage	40%
Impervious Surface Coverage	50%

- I. **DC District Bulk and Dimensional Standards.** Table 11-301(I) establishes the bulk and dimensional requirements for development or use of a lot in the DC: Downtown Commercial District.

<b>Table 11-301(I): DC District Bulk and Dimensional Standards</b>	
<b>Standard</b>	<b>All Uses</b>
<i>Lot Standards (Minimum)</i>	
Lot Area (sq ft)	N/A
Lot Width (ft)	N/A
<i>Yard Setbacks</i>	
Front, Minimum (ft)	0
Front, Maximum (ft)	10
Street Side, Minimum (ft)	0
Street Side, Maximum (ft)	10
Interior Side, Minimum (ft)	5 [1]
Rear, Minimum (ft)	0 [2]
<i>Building Standards</i>	
Height, Minimum (ft)	N/A
Height, Maximum (ft)	70 [3]
Impervious Surface Coverage, Maximum	100%
Building Frontage, Minimum	100% [4]
<i>Notes</i>	
[1] Zero (0) feet for attached buildings	
[2] Ten (10) feet for existing industrial and residential uses	
[3] Thirty-five (35) feet for residential uses not in a mixed-use building	
[4] Only applies to frontage within the designated National Historic District, along Main Street south of E Military Avenue, E 6 <sup>th</sup> Street between N Broad Street and N D Street	

1. **Orientation, Siting, and Design.** In addition to the standards in this Section, all development north of Military Avenue shall align with the design guidelines of the Downtown Redevelopment Plan.
2. **Building Orientation.**
  1. **Primary Building Entrance.** The primary building entrance of new development shall be oriented towards the following roadways, listed in priority order.
    - i. Main Street, Military Avenue, Broad Street
    - ii. Park Avenue, D Street

2. **Secondary Building Entrance(s).** If a lot has two (2) street frontages, secondary building entrance shall be provided along numbered streets.
3. **Building Siting.** New development located at the corner of two (2) streets shall be sited to connect or anchor the corner with prominent architectural features and site treatments.
4. **Proportion, Size, and Scale.** In the designated National Historic District and adjacent lots to the boundary of the National Historic District, the height of the first floor of new development shall be consistent with the height of the first floor of existing adjacent development and shall be emphasized using storefronts and decorative cornices.
5. **Exterior Building Cladding Materials.**
  1. Exterior building cladding materials shall be high quality materials including but not limited to masonry, stone veneer systems, stucco, or other time and weather tested materials approved by the Planning Director.
  2. The ground level must offer pedestrian interest along sidewalks and pedestrian paths through the use of contrasting exterior building cladding materials and elements.
  3. Vinyl and steel clapboard siding exterior building cladding materials shall be prohibited.
6. **Transparency.** New development, redevelopment, and adaptive reuse shall meet the following transparency requirements.
  1. Clear glass windows and/or doors arranged so that the uses inside are visible from and/or accessible to the street shall be used to meet transparency requirements.
  2. Windows and/or doors with reflective, tinted, or covered glass that impede views into a building shall not be used to meet transparency requirements.
  3. Ground floor transparency shall be required as detailed in Table 11-301(l)(6): *Ground Floor Transparency Requirements*.
  4. Adaptive reuse of a building shall reinstall windows in previously enclosed window spaces. Otherwise, adaptive reuse buildings are exempt from minimum transparency requirements.

Table 11-301(l)(6): Ground Floor Transparency Requirements		
	Elevation Facing	
	Front Yard	Street Side Yard
All buildings in the National Register District and all buildings fronting on Main Street	60%	40%
All other buildings	20%	20%

5. **Upper Floor.** Each floor above the ground floor shall be a minimum of twenty (20) percent transparent.
6. **Maintenance.** The required transparency shall be maintained during hours of operation and shall not be obstructed by interior walls or other permanent installations.
7. **Façade Articulation.** Façades greater than fifty (50) feet in length shall incorporate articulation to avoid large expanses of blank faces and provide visual interest. Articulation may be horizontal, vertical, or a combination. Articulation should be applied in a thoughtful and cohesive manner so there is no blank portion of a facade over thirty (30) feet in length. Interpretations can be appealed

according to Article 10 of this UDC. Elements of articulation may include:

1. Changes of depth of the façade such as projections and recesses,
  2. Architectural features such as pilasters, cornices, or other ornament,
  3. Transparent windows and entryways,
  4. Public art and murals, or
  5. As approved by the Planning Director.
8. **Awnings and Canopies.**
1. Building awnings, canopies, or similar weather protection devices are encouraged on the first floor of development facing a public right-of-way.
  2. If provided, awnings or canopies may project into the public right-of-way up to 75% of the sidewalk width.
9. **Location of Parking Areas Accessory to Principal Uses.** Private off-street parking areas accessory to primary uses shall be located to the rear of buildings only.

- J. **NC District Bulk and Dimensional Standards.** Table 11-301(J) establishes the bulk and dimensional requirements for development or use of a lot in the NC: Neighborhood Commercial District.

<b>Table 11-301(J): NC District Bulk and Dimensional Standards</b>	
<b>Standard</b>	<b>All Uses</b>
<i>Lot Standards (Minimum)</i>	
Lot Area (sq ft)	7,500
Lot Width (ft)	50
<i>Yard Setbacks</i>	
Front, Minimum (ft)	20
Street Side, Minimum (ft)	15
Interior Side, Minimum (ft)	5/0 [1]
Rear, Minimum (ft)	10
<i>Building Standards (Maximum)</i>	
Height (ft)	35
Impervious Surface Coverage	75%
<i>Notes</i>	
[1] Zero (0) feet side yard if building is attached	

- K. **GC District Bulk and Dimensional Standards.** Table 11-301(K) establishes the bulk and dimensional requirements for development or use of a lot in the GC: General Commercial District.

<b>Table 11-301(K): GC District Bulk and Dimensional Standards</b>	
<b>Standard</b>	<b>All Uses</b>
<i>Lot Standards (Minimum)</i>	
Lot Area (sq ft)	10,000
Lot Width (ft)	50
<i>Yard Setbacks</i>	
Front, Minimum (ft)	20
Front, Maximum (ft)	N/A
Street Side, Minimum (ft)	20
Interior Side, Minimum (ft)	10/0 [1]
Rear, Minimum (ft)	10
<i>Building Standards (Maximum)</i>	
Height (ft)	45
Impervious Surface Coverage	85%
<i>Notes</i>	
[1] Zero (0) feet side yard if building is attached	

- L. **FC District Bulk and Dimensional Standards.** Table 11-301(L) establishes the bulk and dimensional requirements for development or use of a lot in the FC: Flex Commercial District.

<b>Table 11-301(L): FC District Bulk and Dimensional Standards</b>	
<b>Standard</b>	<b>All Uses</b>
<i>Lot Standards (Minimum)</i>	
Lot Area (sq ft)	10,000
Lot Width (ft)	50
<i>Yard Setbacks</i>	
Front, Minimum (ft)	25
Front, Maximum (ft)	N/A
Street Side, Minimum (ft)	25
Interior Side, Minimum (ft) [1]	15
Rear, Minimum (ft) [1]	20
<i>Building Standards (Maximum)</i>	
Height (ft)	45
Impervious Surface Coverage	70%
<i>Notes</i>	
[1] Nonresidential buildings abutting residential development shall be setback an additional one (1) foot for each foot of building height over thirty-five (35) feet	

M. **LI District Bulk and Dimensional Standards.** Table 11-301(M) establishes the bulk and dimensional requirements for development or use of a lot in the LI: Light Industrial District.

<b>Table 11-301(M): LI District Bulk and Dimensional Standards</b>	
<b>Standard</b>	<b>All Uses</b>
<i>Lot Standards (Minimum)</i>	
Lot Area (sq ft)	15,000
Lot Width (ft)	50
<i>Yard Setbacks [2]</i>	
Front, Minimum (ft)	25
Front, Maximum (ft)	N/A
Street Side, Minimum (ft)	25
Interior Side, Minimum (ft) [1]	15
Rear, Minimum (ft) [1]	20
<i>Building Standards (Maximum)</i>	
Height (ft)	45
Impervious Surface Coverage	80%
<i>Notes</i>	
<p>[1] Nonresidential buildings abutting residential development shall be setback an additional one (1) foot for each foot of building height over thirty-five (35) feet, for up to ten (10) feet of additional setback</p> <p>[2] Lots under 25,000 sq ft may reduce the minimum front and side setback requirements by thirty (30) percent</p>	

N. **GI District Bulk and Dimensional Standards.** Table 11-301(N) establishes the bulk and dimensional requirements for development or use of a lot in the GI: General Industrial District.

<b>Table 11-301(N): GI District Bulk and Dimensional Standards</b>	
<b>Standard</b>	<b>All Uses</b>
<i>Lot Standards (Minimum)</i>	
Lot Area (sq ft)	20,000
Lot Width (ft)	75
<i>Yard Setbacks [2]</i>	
Front, Minimum (ft)	25
Front, Maximum (ft)	N/A
Street Side, Minimum (ft)	25
Interior Side, Minimum (ft) [1]	20
Rear, Minimum (ft) [1]	25
<i>Building Standards (Maximum)</i>	
Height (ft)	60
Impervious Surface Coverage	80%
<i>Notes</i>	
<p>[1] Nonresidential buildings abutting residential development shall be setback an additional one (1) foot for each foot of building height over thirty-five (35) feet</p> <p>[2] Lots under 25,000 sq ft may reduce the minimum front and side setback requirements by thirty (30) percent</p>	

- O. **PA District Bulk and Dimensional Standards.** Table 11-301(O) establishes the bulk and dimensional requirements for development or use of a lot in the PA: Port Authority District.

<b>Table 11-301(O): PA District Bulk and Dimensional Standards</b>	
<b>Standard</b>	<b>All Uses</b>
<i>Lot Standards (Minimum)</i>	
Lot Area (sq ft)	10,000
Lot Width (ft)	50
<i>Yard Setbacks</i>	
Front, Minimum (ft)	25
Front, Maximum (ft)	N/A
Street Side, Minimum (ft)	25
Interior Side, Minimum (ft) [1]	20
Rear, Minimum (ft) [1]	25
<i>Building Standards (Maximum)</i>	
Height (ft)	60
Impervious Surface Coverage	80%
<i>Notes</i>	
[1] Nonresidential buildings abutting residential development shall be setback an additional one (1) foot for each foot of building height over thirty-five (35) feet	

- P. **PDL District Bulk and Dimensional Standards.** The bulk and dimensional requirements for development or use of a lot in the PDL: Planned Development Legacy District shall be as established in the governing planned development ordinance.

### 11-302. Bulk and Dimensional Standards Exceptions

- A. **Average Minimum Lot Width for Lots.** The minimum lot width shall be calculated as the average of the lot widths of front facing lots along the same side of the street and on the same block, or thirty (30) feet, whichever is greater. The single widest and single narrowest lot widths shall be eliminated in the making of the computation.
- B. **Average Minimum Lot Area for Lots.** The minimum lot area shall be calculated as the average of the lot areas of the front facing lots along the same side of the street and on the same block, or four thousand five hundred (4,500) square feet, whichever is greater. The single smallest and single largest lot areas of the parcels shall be eliminated in the making of the computation.
- C. **Height Exceptions.** The following shall be exempt from the height limitations set forth in the applicable district regulations.
1. Chimneys, attic ventilators, plumbing vent stacks, mechanical equipment, elevator bulkheads, tanks, steeples, penthouses not exceeding twenty-five (25) percent of the total roof area, and stage towers or scenery lofts.
  2. Grain, cement, and similar elevators and silos including bucket elevators, unloading towers, and associated mechanical equipment in the LI, GI and AG Districts only.
  3. Water towers.
  4. Press boxes for educational facility stadiums. Press boxes on top of bleachers associated with educational or public athletic fields may be up to forty-eight (48) feet tall.
- D. **Yard Setback Exceptions.**
1. **Setbacks on Built-Up Block Faces.** These provisions apply if thirty (30) percent or more of the buildings on a block face have front yard setbacks that are different than those required by district in which they are located.
    - a. If a building is to be built on a lot or tract of land within one hundred (100) feet of existing buildings on both sides, the minimum front yard setback shall be the average setbacks of the adjacent buildings, or the required setback of the applicable district, whichever is less.
    - b. If a building or addition is to be built on a lot or tract of land within one hundred (100) feet of an existing building on one (1) side only, the minimum front yard setback shall be the setback of the adjacent building, or the required setback of the applicable district, whichever is less.
    - c. If the building is to be built on a lot or tract of land that is not within one hundred (100) feet of an existing building on either side, then the minimum front yard setback shall be the required setback of the applicable district.
  2. **Corner Lots.** Required street side yard setbacks shall not reduce the buildable width of any corner lot to less than twenty-four (24) feet. Setback adjustments of up to twenty (20) percent may be permitted to maintain this minimum width.
  3. **Double Frontage Lots or Through Lots.** Residentially zoned double frontage lots, or through lots, fronting an arterial street, with no access to said street, shall have a setback equal to the rear yard setback as provided for in the applicable district regulations. All other double frontage lots must provide full front yard setbacks from each adjacent street.

**11-303. Permitted Encroachments of Required Yards**

- A. Every part of a required yard shall be open and unobstructed from finished grade upward, except as specified in Table 11-303(A): *Permitted Encroachments of Required Yards*. In no instance shall a permitted encroachment of a required yard extend into an easement.

<b>Table 11-303(A): Permitted Encroachments of Required Yards</b>				
<b>Building Feature or Structure</b>	<b>District</b>	<b>Yard</b>	<b>Maximum Yard Encroachment Outside of Easements</b>	<b>Provisions</b>
<i>Architectural projections, window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features</i>	All districts	All yards	3 feet maximum	Projection shall not obstruct the light and ventilation of adjacent buildings
				Projection shall be set back at least three (3) feet from an adjacent side or rear lot line, and ten (10) feet from any front lot line
<i>Terraces, patios, decks, roofs covering porches and ornamental features, which have no structural element more than three (3) feet above or below the adjacent ground level</i>	All districts	All yards	10 feet maximum	Projection shall be set back at least three (3) feet from an adjacent side or rear lot line, and ten (10) feet from any front lot line
<i>Fire escapes, fireproof outside stairways, egress window wells</i>	All districts	Street side yard; Side yard; Rear yard	3 feet maximum	Projection shall not obstruct the light and ventilation of adjacent buildings
				Projection shall be set back at least three (3) feet from an adjacent side or rear lot line and shall not extend into any easement
<i>Balconies</i>	R-4 District	All yards	3 feet maximum	Projection shall not obstruct the light and ventilation of adjacent buildings
				Projection shall be set back at least three (3) feet from an adjacent side or rear lot line, and twenty (20) feet from any front lot line
<i>Canopies over ground floor windows and building entrances</i>	NC, GC, and DC Districts	Front yard; Street side yard	No maximum except that in the in the DC District may project a maximum of 75% of the sidewalk width into the public right-of-way.	Projection shall have a vertical clearance of at least eight (8) feet six (6) inches

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<i>Decorative lamp posts with a maximum height of eight (8) feet, and flag poles with a maximum height of thirty-five (35) feet</i>	All districts	All yards	No maximum	Projection shall be set back at least five (5) feet from all property lines
<i>ADA ramps</i>	All districts	Front yard	No maximum	Projection shall be setback at least three (3) feet from side property lines

## Article 4. Overlay District Specific Standards

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### 11-401. HP-O: Historic Preservation Overlay District

RESERVE

### 11-402. NC-O: Neighborhood Conservation Overlay District

#### A. Redevelopment of Nonconforming Lots.

1. Redevelopment of lots in the NC-O District that are nonconforming with base district lot area, lot width, yard setbacks, building coverage, and impervious surface coverage standards is allowed.
2. Redevelopment shall follow the yard setback standards of the original building.
3. Redevelopment may meet original building coverage and impervious surface coverage conditions.

B. **Uses.** Development in the NC-O District that utilizes the alternative bulk and dimensional standards shall be limited to single-family detached uses only.

#### C. Parking.

1. Development in the NC-O District that utilizes the alternative bulk and dimensional standards shall provide a minimum of one (1) off-street parking space.
2. The Planning Director may waive the minimum off-street parking requirement if the subject parcel is located along one (1) or more public street frontages where public parking is permitted.

### 11-403. MUR-O: Mixed Use Redevelopment Overlay District

- A. **Bulk and Dimensional Standards.** Development in the MUR-O District may utilize the alternative bulk and dimensional standards established in Table 11-403(A): *MUR-O District Bulk and Dimensional Standards*, instead of the bulk and dimensional standards of the base district.

Table 11-403(A): MUR-O District Bulk and Dimensional Standards	
Standard	All Uses
<i>Lot Standards (Minimum)</i>	
Lot Area (sq ft)	n/a
Lot Width (ft)	n/a
<i>Yard Setbacks</i>	
Front, Minimum (ft)	15
Front, Maximum (ft)	15
Street Side, Minimum (ft)	5
Interior Side, Minimum (ft)	5
Rear, Minimum (ft)	25
<i>Building Standards (Maximum)</i>	
Height (ft)	45 [1]
Building Coverage [1]	70%
Impervious Surface Coverage [1]	75%
<i>Notes</i>	
[1] Buildings more than thirty-five (35) feet in height shall meet the transition standards established in Section 11-403(E): <i>Transition Standards</i> .	

B. **Uses.**

1. **Single Use Buildings.** Single use buildings in the MUR-O District that utilize the alternative bulk and dimensional standards established in Table 11-403(A): *MUR-O District Bulk and Dimensional Standards*, may comprise of the uses detailed in Table 11-403(B)(1): *Single Use Building Permitted Uses*. Uses shall be considered permitted.

Table 11-403(B)(1): Single Use Building Permitted Uses		
Permitted Use	Lot Location	
	Mid-Block	Block End
Rowhome	•	•
Multifamily Building, 4 units or fewer	•	•
Multifamily Building, 5 units or more	•	•
Office, 5,000 sq ft or less		•

2. **Mixed Use Building – Ground Floor.** The ground floor of mixed-use buildings in the MUR-O District that utilize the alternative bulk and dimensional standards established in Table 11-403(A): *MUR-O District Bulk and Dimensional Standards*, may comprise of the uses detailed in Table 11-403(B)(2): *Mixed Use Building Ground Floor Permitted Uses*. Uses shall be considered permitted.

Table 11-403(B)(2): Mixed Use Building Ground Floor Permitted Uses		
Permitted Use	Lot Location	
	Mid-Block	Block End
Multifamily Building, 4 units or fewer	●	●
Multifamily Building, 5 units or more	●	●
General retail, 5,000 sq ft or less		●
General service, 5,000 sq ft or less		●
Office, 5,000 sq ft or less		●

3. **Mixed Use Building – Upper Floors.** The upper floors of mixed-use buildings in the MUR-O District that utilize the alternative bulk and dimensional standards established in Table 11-403(A): *MUR-O District Bulk and Dimensional Standards*, may comprise of the uses detailed in Table 11-403(B)(3): *Mixed Use Building Upper Floor Permitted Uses*. Uses shall be considered permitted.

Table 11-403(B)(3): Mixed Use Building Upper Floor Permitted Uses		
Permitted Use	Lot Location	
	Mid-Block	Block End
Multifamily Building, 4 units or fewer	●	●
Multifamily Building, 5 units or more	●	●
Office, 5,000 sq ft or less	●	●

**C. Access.**

1. **Mid-Block Lot Access.** Access to parking areas serving mid-block development in the MUR-O District that utilizes the alternative bulk and dimensional standards established in Table 11-403(A): *MUR-O District Bulk and Dimensional Standards*, shall be accessed from a side street, alley, or access easement.
2. **Block End Lot Access.** Access to parking areas serving block end development in the MUR-O District that utilizes the alternative bulk and dimensional standards established in Table 11-403(A): *MUR-O District Bulk and Dimensional Standards*, shall be accessed from a side street or alley.

**D. Parking.**

1. **Amount.** Development in the MUR-O District shall meet the minimum parking requirements established per use in Table 11-601(B)(4): *Minimum Required Parking by Use*.
2. **Location.** Parking areas serving development in the MUR-O District shall be located to the rear of buildings.

**E. Transition Standards.** Any building in the MUR-O District that exceeds the height thirty-five (35) feet in height shall provide at least one of the transitions detailed below:

1. Provide a step down in height along the shared property line to meet the height of the building on an applicable property for a minimum of fifty (50) percent of the façade.
2. Increase the setback by five (5) feet for each story exceeding the height of the adjacent building on an applicable property. The increased setback shall be applied to the building façade adjacent to the applicable property.

3. Utilize dormers and sloping roofs to accommodate stories above the height of the adjacent building on an applicable property.
4. Provide a Transition Zone according to Subsection 11-603(K): *Transition Landscaping Zone Requirements*, to the subject property line adjacent to the applicable property.

#### 11-404. PD-O: Planned Development Overlay District

The PD-O Planned Development Overlay District is created to visually represent areas of the community that are governed by an approved Planned Unit Development as detailed in Article 8: *Planned Development Standards & Procedures*, of this UDC. Overlay district specific standards are therefore not established for the PD-O Planned Development Overlay District.

#### 11-405. A-O: Airport Overlay District

- A. **Administration.** The Public Works Director or their designee shall be responsible for the administration of the A-O District.
- B. **Conflict.** In the event of any conflict between the regulations of this UDC and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such other regulations were adopted by the city or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.
- C. **Applicability.** All projects that exceed one hundred fifty (150) feet in height shall be reviewed by the Planning Director and Public Works Director, in consultation with the airport manager, for compliance with the provisions of the Airport Overlay (A-O) District standards.
- D. **Interpretation.** All features of property within the Airport Overlay (A-O) District shall comply with the applicable requirements of 14 CFR § 77. The City may require a study establishing compliance at the time of a rezoning and at the time of application for development approval. Where structures are allowed, the maximum height must not exceed the limitations of 14 CFR § 77 in effect at the time of permit issuance.
- E. **Avigation Easement Required.** Development shall supply an appropriate avigation easement over the lot or tract proposed for development. The easement shall:
  1. Be in a form reviewed and recommended by the city attorney and approved by the City Council;
  2. Permit flight operations above the lot or tract proposed for development;
  3. Release the aircraft operator, the airport owner and operators, and the City from liability or responsibility for the effects of their flight operations;
  4. Recognize the right of the aircraft operator, the airport owner and operators, and the City to:
    - a. Create noise, dust, fumes, vibration, the dispersion of fuel particles;
    - b. Prohibit electrical interference and directed lighting or glare that would interfere with airport operations; and
    - c. Remove, mark, or light structures or growth above heights specified in the easement.
  5. Run with the land with a perpetual term except upon release by the city administrator following the permanent cessation of operations of the Fremont Municipal Airport;
  6. Include language stating that noise mitigation construction techniques are required to mitigate the noise to which the property is exposed where applicable; and
  7. Be recorded in the public records of Dodge County, Nebraska.

- D. **Permitted Uses.** In addition to the uses permitted in the base district as specified in Section 11-501: *Permitted, Limited, Conditional, and Temporary Uses*, the Airport Overlay (A-O) District shall permit airport uses, as well as related support facilities.
- E. **Uses Restricted.** No use shall create electrical interference with navigational signals or radio communication between the airport and aircraft, cause difficulty for pilots to distinguish between airport lights and others, result in glare that affects aircraft navigation, or impair visibility in the vicinity of the airport or otherwise in any way that creates a hazard or endangers the landing, takeoff, or maneuvering of aircraft using the airport.
- F. **Height Limitations.** The height limitations for the base district shall apply as established in Section 11-301: *Bulk and Dimensional Standards*.
- G. **Required Permit.** The construction of any building or structure shall require review as detailed in Article 10: *Zoning Procedures*.

## 11-406. F-O: Floodway Overlay and Flood Fringe Overlay Districts

### A. Statutory Authorization, Findings of Fact, and Purposes.

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 City Council of the City of Fremont, Nebraska ordains as follows:
  2. **Findings of Fact.**
    - a. **Flood Losses Resulting from Periodic Inundation.** The flood hazard areas of the city of Fremont, 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.
    - c. **Methods Used to Analyze Flood Hazards.** These regulations use a reasonable method of analyzing flood hazards, which consists of a series of interrelated steps:
      - I. Selection of a regulatory flood based upon engineering calculations that allows a consideration of such flood factors as the expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for these regulations and is representative of large floods that are reasonably characteristic of what can be expected to occur on the particular streams subject to these regulations. The base flood is in the general order of a flood that could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the FEMA Flood Insurance Study and other associated materials, as amended.
      - II. Calculation of water surface profiles based on a hydrologic and hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
      - III. Computation of the floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

- IV. Delineation of floodway encroachment lines within which no obstruction is allowed that would cause any water surface elevation increase along the floodway profile.
  - V. Delineation of flood fringe, the area outside the floodway encroachment lines, but that still is subject to inundation by the base flood.
3. **Statement of Purpose.** It is the purpose of these regulations to promote the public health, safety, and general welfare and to minimize those losses described in Subsection 11-406(A)(2): *Findings of Fact*, by applying the provisions of these regulations 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.
4. **Adherence to Regulations.** The regulations of these regulations 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.

## B. General Provisions

1. **Lands to Which These Regulations Apply.** These regulations shall apply to all lands within the jurisdictions of the city of Fremont identified on the Flood Insurance Rate Map (FIRM) panels shown on the Index dated January 2, 2008 as Zones A, A1-30, AE, AO, or AH and within the Districts FW and FF established in Section 11-406 F-O: *Floodway Overlay and Flood Fringe Overlay Districts*, of these regulations. In all areas covered by these regulations, 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 City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Subsections 11-406(D): *Floodplain Management Administration*, and 11-406(E): *Standards for Floodplain Development*.
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 of 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 official zoning map, for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Floodplain Administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the board of adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the board of adjustment and to submit their own technical evidence, if so desired.
3. **Compliance.** Within identified special flood hazard areas of this community, no development shall be located, extended, converted, or structurally altered without full compliance with the terms of these regulations and other applicable regulations.

4. **Abrogation and Greater Restrictions.** These regulations do not intend to repeal, abrogate, or impair any existent easements, covenants, or deed restrictions. However, where these regulations impose greater restrictions, the provision of these regulations shall prevail. All other ordinances inconsistent with these regulations are hereby repealed to the extent of the inconsistency only.
  5. **Interpretation.** In their interpretation and application, the provisions of these regulations 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.
  6. **Warning and Disclaimer of Liability.** The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do 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. These regulations shall not create liability on the part of the City of Fremont or any officer or employee thereof for any flood damages that may result from reliance on these regulations or any administrative decision lawfully made thereunder.
  7. **Severability.** If any section, clause, provision, or portion of these regulations is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.
- C. **Establishment of Zoning Districts.** Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: a Floodway Overlay District (FW) and a Flood Fringe Overlay District (FF) as identified in the Flood Insurance Study dated August, 1978, and on accompanying FIRM panels as established in Subsection 11-406(B)(1): *Lands to Which These Regulations Apply*. The Flood Fringe Overlay District (FF) shall correspond to flood zones A, AE, A1-30, AH, AO, AR, A99, and floodway areas in Zone AE that are identified on FIRM panels. The Floodway Overlay District (FW) shall correspond to the floodway areas in Zone AE that are identified on the FIRM panels. Within these districts, all uses not meeting the standards of these regulations and those standards of the underlying zoning district shall be prohibited.
- D. **Floodplain Management Administration.**
1. **Designation of Floodplain Administrator.** The Floodplain Administrator (Floodplain Administrator, e.g. clerk, engineer, planning director, etc.) of 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 these regulations. If the local Floodplain Administrator position is unfilled, the community CEO shall assume the duties and responsibilities herein.
  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.
  3. **Duties of the Floodplain Administrator.** Duties of the Floodplain Administrator shall include, but not be limited to the following:
    - a. Review, approve, or deny all applications for floodplain development permits.
    - b. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of these regulations have been satisfied.
    - c. 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.
    - d. Review all subdivision proposals and other proposed new development, including mobile home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.

- e. 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.
- f. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
- g. 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.
- h. 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 floodproofed.
- i. 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.
- j. Ensure comprehensive development plan as amended is consistent with these regulations.
- k. 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 these regulations.

**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 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 floodproofing is utilized for an applicable structure, a floodproofing certificate shall be provided to the Floodplain Administrator and be completed by a licensed professional engineer or architect.
  - e. For all development proposed in the floodway, no-rise certification shall be provided to the Floodplain Administrator and be completed by a licensed professional engineer.
  - f. Any other such information as reasonably may be required by the Floodplain Administrator shall be provided.
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 these regulations. 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.
  - c. Letters of Map Revision: Federal regulations in Title 44 of the Code of Federal Regulations, Article 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.]
6. **Variations and Appeals.**
- a. **Procedures.**
    - I. The board of adjustment as established by the City of Fremont shall hear and decide appeals and requests for variances from the requirements of these regulations.

- II. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of these regulations.
  - III. Any person aggrieved by the decision of the board of adjustment 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).
  - IV. In evaluating such appeals and requests, the Board of Adjustment shall consider technical evaluation, all relevant factors, standards specified in other sections of these regulations, 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 and future owners,
    - 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.
- b. Conditions**
- I. 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.
  - II. Variances shall only be issued based upon a determination that the granting of a variance will not result in increased flood heights.
  - III. 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.
  - IV. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items V-IX below have been fully considered. As the lot size increases beyond one-half (1/2) acre, the technical justification required for issuing the variance increases.

- V. 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.
  - VI. Variances shall not be issued within any designated floodway if any increase in water surface elevations along the floodway profile during the base flood discharge would result.
  - VII. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - VIII. 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 twenty-five dollars (\$25) for one hundred dollars (\$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 these regulations.
  - IX. All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by the community.
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 these regulations 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 these regulations, 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 these regulations.
  - c. **Penalties.**
    - I. Violation of the provisions of these regulations or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person, firm, corporate, or other entity that violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one thousand dollars (\$1,000), 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 these regulations 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 City of Fremont or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

**E. Standards For Floodplain Development.**

**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 Subsection 11-406(E)(1)(b): *Encroachments*, shall apply:
  - i. Any development that will cause a rise in the base flood elevations within the floodway, or
  - ii. Any development in Zones A, A1-30, and Zone AE without a designated floodway that will cause a rise of more than one (1) foot in the base flood elevation, or
  - iii. Alteration or relocation of a stream, then
- II. The applicant shall:
  - i. 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, Article 1, Part 65.12) prior to the permit for the encroachments, and
  - ii. Supply full package to the Floodplain Administrator including any required notifications to potentially affected property owners.

**c. Floodway Overlay District.**

- I. Standards for the Floodway Overlay District:
  - i. New structures for human habitation are prohibited.
  - ii. All encroachments, including fill, new construction, substantial improvements, and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during the occurrence of the base flood discharge. These uses are also subject to all the standards of Subsection 11-406(E): *Standards for Floodplain Development*.

- iii. In Zone A areas, obtain, review, and reasonably utilize any flood elevation and floodway data available through federal, state, or other sources or Subsection 11-406(E)(3)(h): *Subdivisions*, in meeting the standards of this Section.
- II. Only uses having a low flood-damage potential and not obstructing flood flows shall be allowed within the Floodway Overlay District to the extent that they are not prohibited by any other ordinance. The following are recommended uses for the Floodway Overlay District:
    - i. Agricultural uses such as general farming, pasture, nurseries, and forestry.
    - ii. Residential uses such as lawns, gardens, parking, and play areas.
    - iii. Nonresidential uses such as loading areas, parking, and airport landing strips.
    - iv. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, and wildlife and nature preserves.
2. **Elevation and Floodproofing Requirements.**
- a. **Residential Structures.**
    - I. In Zones A, AE, A1-30, and AH, 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.
    - II. In Zone AO, all new construction and substantial improvements shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the FIRM or, if no depth number is specified on the FIRM, at least as high as three (3) feet.
    - III. In the floodway, new structures for human habitation are prohibited.
  - b. **Nonresidential Structures.**
    - I. In Zones A, AE, A1-30, and AH, 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, floodproofed so that below one (1) foot above the base flood elevation:
      - i. The structure is watertight with walls substantially impermeable to the passage of water; and
      - ii. 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 floodproofing certificate shall be provided to the Floodplain Administrator as set forth in Subsection 11-406(D): *Floodplain Management Administration*.
    - II. In Zone AO, all new construction and substantial improvements shall have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the FIRM or, if no depth number is specified on the FIRM, at least as high as three (3) feet; or, together with attendant utility and sanitary facilities, floodproofed so that below one (1) foot above the base flood elevation:
      - i. The structure is watertight with walls substantially impermeable to the passage of water; and
      - ii. 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 floodproofing certificate shall be provided to the Floodplain Administrator as set forth in Subsection 11-406(D): *Floodplain Management Administration*.

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.
- III. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - i. A minimum of two (2) openings having a net total area of not less than one (1) square inch for every one (1) square foot of enclosed space,
  - ii. The bottom of all openings shall not be higher than one (1) foot above grade, and
  - iii. 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.** Structures accessory to a principal building may have the lowest floor below one (1) foot above base flood elevation provided that the structure complies with the following requirements:

- I. The structure shall not be used for human habitation.
- II. 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.
- III. The floor area shall not exceed four hundred (400) square feet.
- IV. The structure shall have a low damage potential.
- V. The structure must be adequately anchored to prevent flotation, collapse, or other lateral movement.
- VI. 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:
  - i. A minimum of two (2) openings having a net area of not less than one (1) square inch for every one (1) square foot of enclosed space,
  - ii. The bottom of all openings shall not be higher than one (1) foot above grade, and
  - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.
- VII. No utilities shall be installed except electrical fixtures in the structure, which must be elevated or floodproofed to one (1) foot above base flood elevation.
- VIII. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- IX. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

e. **Mobile Homes.**

- I. Require that all mobile homes to be placed or substantially improved within floodplains on sites:
    - i. Outside of a mobile home park or subdivision,
    - ii. In a new mobile home park or subdivision,
    - iii. In an expansion to an existing mobile home park or subdivision, or
    - iv. In an existing mobile home park or subdivision on which a mobile home as incurred substantial damage as the result of a flood,
      1. Be elevated on a permanent foundation such that the lowest floor of the mobile 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 mobile homes to be placed or substantially improved on sites in an existing mobile home park or subdivision within special flood hazard areas that are not subject to the provisions of Subsection 11-406(E)(2)(c): *Space Below Lowest Floor*, be elevated so that either;
    - i. The lowest floor of the mobile home is at or above one (1) foot above the base flood elevation, or
    - ii. The mobile home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Subsection 11-406(E)(2)(e)(IV) below.
  - III. New mobile home parks of five (5) acres or fifty (50) lots, whichever is less, shall follow the standards of Subsection 11-406(E)(3)(h): *Subdivisions*.
  - IV. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement. Mobile 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:
    - i. Over-the-top ties be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations and mobile homes less than fifty (50) feet long requiring one (1) additional tie per side,
    - ii. Frame ties be provided at each corner of the mobile home with five (5) additional ties per side at intermediate points and mobile homes less than fifty (50) feet long requiring four additional ties per side,
    - iii. Any additions to the mobile home be similarly anchored.
- f. **Existing Structures.**
- I. The provisions of these regulations 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 is required and the provisions of Subsection 11-406(E)(2)(e)(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 these regulations.
  - III. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure in the floodway shall comply with the provisions of Subsection 11-406(E)(2)(e)(I).

- IV. 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, floodproofing certificate, or no rise certification.
3. **Design and Construction Standards.**
- a. **Anchoring.** 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.** 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.** 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.** Recreational vehicles to be placed on sites within the floodplain shall:
- I. Be on site for fewer than one hundred eighty (180) consecutive days,
- II. 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
- III. Meet the permit requirements and the elevation and anchoring requirements for mobile homes of these regulations.

- h. **Subdivisions.** Subdivision proposals and other proposed new development, including mobile home parks or subdivisions, shall require assurance that:
- I. All such proposals are consistent with the need to minimize flood damage,
  - II. All public utilities and facilities such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage,
  - III. Adequate drainage is provided so as to reduce exposure to flood hazards, and
  - IV. Proposals for development (including proposals for mobile 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.

**F. Nonconforming Use.**

1. A structure or use of a structure or premises that was lawful before the passage or amendment of these regulations, but that is not in conformity with the provisions of these regulations may be continued subject to the following conditions:
  - a. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to these regulations. 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 twelve (12) months.
  - b. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of these regulations. 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.

**G. Amendments.**

1. The regulations, restrictions, and boundaries set forth in these regulations may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in federal, state, or local regulations provided, however, that no such action may be taken 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 City of Fremont. At least ten (10) days shall elapse between the date of this publication and the public hearing.
2. 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.

**H. Floodplain Development Permits.**

1. **Generally.** All development proposed within a special flood hazard area and all development constructed, installed, commenced, improved, or maintained within a special flood hazard area after the effective date (to the extent permitted by this UDC), is required to obtain a floodplain development permit from the Floodplain Administrator, in accordance with the procedure established in this Subsection, and the applicant for approval of such development shall pay the fee established by the City Council.

2. **Standards of Issuance.** Approval or denial of a Floodplain Development Permit by the Floodplain Administrator, shall be based on all applicable provisions of Subsection 11-406: *Floodway Overlay and Flood Fringe Overlay Districts*, and the following relevant factors:
  - a. The danger to life and property due to flooding and erosion damage,
  - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner,
  - c. The danger that materials may be swept onto other lands to the injury of others,
  - d. The compatibility of the proposed use with existing and anticipated development,
  - e. The safety of access to the property in times of flood for ordinary and emergency vehicles,
  - f. The costs of providing governmental service during and after flood including maintenance and repair of street and bridges and public utilities and facilities such as water, waste water, gas, electric, and storm water systems,
  - g. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site,
  - h. The availability of alternative locations, not subject to flooding or erosion damage for the proposed use, and
  - i. The relationship of the proposed use to the comprehensive plan for that area.
3. **Procedure.** Floodplain development permits are processed by the Floodplain Administrator, who may accept the review, comment, and recommendations of the Director of Public Works and others, as applicable.
4. **Permit Issuance.** No permit for any construction or development in any flood hazard area shall be issued until a Floodplain Development Permit has been issued by the Floodplain Administrator.

### 11-407. WP-O: Wellhead Protection Overlay District

- A. **Permitted Uses.** The uses that are allowed by right (permitted), allowed subject to special standards (limited) or processes (conditional) are set out in Section 11-501(B): *Permitted, Limited, Conditional, and Temporary Uses*.
- B. **Parking Areas.** Parking areas shall be buffered by bio-swales approved by the Fremont Utilities Department to minimize negative impacts on the well field from oil, petroleum products, anti-freeze and other deleterious elements.
- C. **Annexation.** All development in the Wellhead Protection Overlay District shall be required to be annexed into the City of Fremont and to connect to the Fremont water and sanitary sewer utility systems.
- D. **Petroleum Products.** The storage of petroleum products for commercial, agricultural or industrial uses is prohibited.

## Article 5. Use Specific Standards

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### 11-501. Permitted, Limited, Conditional, and Temporary Uses

- A. The following key shall be used in the interpretation of Table 11-501(B): *Permitted, Limited, Conditional, and Temporary Uses*.
- Permitted Uses.** Uses which are marked as “P” in the table shall be allowed subject to all applicable regulations of this UDC.
  - Limited Uses.** Uses which are marked as “L” in the Table shall be allowed upon the approval of a Limited Use Permit as detailed in Article 10: *Zoning Procedures*. If all criteria of a limited use are not met, the applicant may apply for and follow the process for a conditional use permit. If there are limited uses specified in the Tables that are not included in Sections 11-502-514, all applicable standards of this UDC and all conditions of approval that may be determined by the Planning Commission and City Council shall apply. Any use listed as a limited use as of the date of adoption of this UDC is presumed to have a valid limited use permit.
  - Conditional Uses.** Uses which are marked as “C” in the Table shall be allowed upon the approval of a Conditional Use Permit as detailed in Article 10: *Zoning Procedures*. If there are Conditional Uses specified in the Tables that are not included in Sections 11-502-514, all applicable standards of this UDC and all conditions of approval that may be determined by the Planning Commission and City Council shall apply. Any use listed as a conditional use as of the date of adoption of this UDC is

presumed to have a valid conditional use permit.

4. **Temporary Uses.** Uses which are marked “T” in the Tables shall be allowed upon the approval of a Temporary Use Permit as detailed in Article 10: *Zoning Procedures*. Any use listed as a temporary use as of the date of adoption of this UDC is presumed to have a valid temporary use permit.
5. **Prohibited Uses.** A blank space in the Tables indicates that a use type is not allowed in the respective district unless it is otherwise expressly allowed by other regulations of this UDC.
6. **Uses Not Listed.** If a proposed use is not listed in the Tables, the Planning Director shall determine if the use is substantially similar to a use listed on the Tables per interpretations in Article 10: *Zoning Procedures*. If it is, they shall treat the use in the same manner as the substantially similar use. If not, the use shall be regarded as prohibited.

B. **Permitted, Limited, Conditional, and Temporary Uses.** Table 11-501(B): *Permitted, Limited, Conditional, and Temporary Uses*, establishes the uses that are allowed in the City of Fremont’s districts.

Table 11-501(B): Permitted, Limited, Conditional, and Temporary Uses																
Use	AG	R-L	R-A	R-1	R-2	R-3	R-4	MH	DC	NC	GC	FC	LI	GI	PA	WP
<i>Residential</i>	<i>AG</i>	<i>R-L</i>	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>MH</i>	<i>DC</i>	<i>NC</i>	<i>GC</i>	<i>FC</i>	<i>LI</i>	<i>GI</i>	<i>PA</i>	<i>WP</i>
Single-Family Detached	P	P	P	P	P	P	P	P		L						L
Manufactured Home Subdivision								P								C
Mobile/Manufactured Home Park, existing prior to the adoption of this UDC								PD								
Duplex				L	P	P	P			L						C
Rowhome					C	L	L		L	L						
Multifamily, above ground floor									P	P	P					C
Multifamily Building, 4 units or fewer						L	P		C	C						C
Multifamily Building, 5 units or more						C	L		C	C						C
Multifamily Complex						C	L									C
<i>Institutional</i>	<i>AG</i>	<i>R-L</i>	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>MH</i>	<i>DC</i>	<i>NC</i>	<i>GC</i>	<i>FC</i>	<i>LI</i>	<i>GI</i>	<i>PA</i>	<i>WP</i>
Educational Facility, College, University, and Vocational						C	C		C	C	C	C	C	C		
Education Facility, Primary and Secondary	C			C	C	C	C									C

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Institutional Residential, fewer than 8 residents	C	C	C	C	C	C	C			L	L					C
Institutional Residential, 8 residents or more				C	C	C	C			C	C					C
Governmental Uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C
Health Care Facility							C			L	P	P				C
Health Care Service				C	C	C	C			L	P	L				C
Health Clinic										P	P	L				C
Home Health Agency Office										P	P	L				C
Cemetery	L			L	L	L										
<i>Place of Assembly</i>	<i>AG</i>	<i>R-L</i>	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>MH</i>	<i>DC</i>	<i>NC</i>	<i>GC</i>	<i>FC</i>	<i>LI</i>	<i>GI</i>	<i>PA</i>	<i>WP</i>
Indoor Place of Assembly, 5,000 sq ft or less	C	L		L	L	L	L	L	P	L	P	P	P	P		C
Indoor Place of Assembly, more than 5,000 sq ft	C	C		C	C	C	C	C	C	C	P	P	C	C		C
Outdoor Place of Assembly	C									C	C	L	C	C		C

Table 11-501(B): Permitted, Limited, Conditional, and Temporary Uses																
Use	A G	R- L	R - A	R - 1	R - 2	R - 3	R- 4	M H	D C	N C	G C	F C	L I	G I	P A	W P
<i>Recreation and Amusement</i>	<i>AG</i>	<i>R-L</i>	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>M H</i>	<i>DC</i>	<i>NC</i>	<i>GC</i>	<i>FC</i>	<i>LI</i>	<i>GI</i>	<i>PA</i>	<i>WP</i>
Campground	C	C														
Personal Camp Site	L	P														
Driving Range	C		C	C							C	C				
Golf Course	C		C	C												
Health Club									P	L	P	P	C			
Indoor Commercial Amusement									P	L	P	P	C			
Indoor Recreation									P	L	P	P	C			
Outdoor Commercial Amusement	C										C	C				
Outdoor Recreation	C	P	P	P	P	P	P	P								
Park	P	P	P	P	P	P	P	P	P							C
<i>Lodging</i>	<i>AG</i>	<i>R-L</i>	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>M H</i>	<i>DC</i>	<i>NC</i>	<i>GC</i>	<i>FC</i>	<i>LI</i>	<i>GI</i>	<i>PA</i>	<i>WP</i>
Lodging House	L	L		L	L	L	L									C
Hotel									P	C	C	C				C
Motel										C	C					C
Short Term Rental	L	L	L	L	L	L	L	L	P	L	L					C
<i>Retail</i>	<i>AG</i>	<i>R-L</i>	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>M H</i>	<i>DC</i>	<i>NC</i>	<i>GC</i>	<i>FC</i>	<i>LI</i>	<i>GI</i>	<i>PA</i>	<i>WP</i>
General Retail, 5,000 sq ft or less									P	P	P	P	P	P		C
General Retail, more than 5,000 sq ft									L	C	P	C	C			C
Multitenant Retail Building									P	P	P	P				
Multitenant Shopping Center									L	C	L	C				C
Pawn, Vape, Smoke and Dispensary Shops											L	L	L			
<i>Service</i>	<i>AG</i>	<i>R-L</i>	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>M H</i>	<i>DC</i>	<i>NC</i>	<i>GC</i>	<i>FC</i>	<i>LI</i>	<i>GI</i>	<i>PA</i>	<i>WP</i>
Adult Day Service							L		L	L	L					C

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Adult Establishment													C	C		
ATM, free standing										C	P	C				
Child Care Center				C	C	C	C			L	L	L	L			C
Communication Services										L	L	L	L			C
General Service										P	P	P	P			
Financial Institution										L	L	P	L			C
Funerary Services											L	L	L	C	C	
Large Animal Boarding Facility	C														C	
Large Animal Veterinary Service	C														C	
Office										P	P	P	P			C
Office Complex/Business Park												P	P	L	C	C
Pet Daycare										L	L	L	L	P		C
Small Animal Boarding Facility/Kennel	C									C	C	L	L	L		
Small Animal Veterinary Service	C									L	L	L	L	C		
<i>Eating and Drinking</i>	<i>AG</i>	<i>R-L</i>	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>M</i>	<i>DC</i>	<i>NC</i>	<i>GC</i>	<i>F</i>	<i>LI</i>	<i>GI</i>	<i>PA</i>	<i>WP</i>
Bar/Tavern										P	L	P	P	C	C	C
Brewery/Winery/Distillery Tasting Room	C									P	P	P	P	L		C
Drive-Through Kiosk											C	P	C			
Micro-Brewery/Winery/Distillery	C									P		P	L	C		
Restaurant										P	P	P	L	C	C	C
<i>Vehicle Related</i>	<i>AG</i>	<i>R-L</i>	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>M</i>	<i>DC</i>	<i>NC</i>	<i>GC</i>	<i>F</i>	<i>LI</i>	<i>GI</i>	<i>PA</i>	<i>WP</i>
Auto Sales/Rental and Service												L	L	C		
Carwash												C	C	C		
Major Automotive Repair										C		L	L	L	C	
Minor Automotive Repair										C		L	L	L	C	
On-line auto/truck/trailer sales or auctions no more than 3 vehicles on site												P	P	P	P	
Truck Stop												C	C	C	C	

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Vehicle Fuel Sales/Charging Station									C	L	L	C	L	P		
<i>Agricultural</i>	AG	R-L	R-A	R-1	R-2	R-3	R-4	M H	DC	N C	GC	FC	LI	GI	PA	WP
Community Garden	P	P	P	P	P	P	P	P								
Crop Production	P	C	C	C	C	C	C			C	C	C	C	C	P	L
Animal Husbandry	P															
Indoor Agriculture	L										C	P	P	P	C	
Nursery Retail	C										P	P	C			
Nursery Wholesale	L															
<i>Industrial</i>	AG	R-L	R-A	R-1	R-2	R-3	R-4	M H	DC	N C	GC	FC	LI	GI	PA	WP
Artisan Manufacturing	C								P	L	P	P	L	L		L
Brewery/Winery/Distillery	C											L	P	P		
Composting/	C													C		
Distribution Facility													C	P	C	
Equipment Rental, Sales, and Service	C										L	L	L	C		
Extractive Industry	C												C	C	C	C
Heavy Industry														L	C	
Hobby Garage	P											P	P	P		
Home Improvement Center/											L	L	L	C		
Light Industry												L	P	P	C	
Recycling Facility													C	L		
Self-Service Storage Facility											C	L	L	L		C
Solid Waste Facility/Solid Waste Transfer Station													C	L		
Storage Yard												C	C	C	C	
Warehouse												C	L	P	C	
Wholesale/Distribution Establishment												L	L	L	C	
Wrecking Yard/Salvage Yard													C	C		

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<i>Utility</i>	<i>AG</i>	<i>R-L</i>	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>MH</i>	<i>DC</i>	<i>NC</i>	<i>GC</i>	<i>FC</i>	<i>LI</i>	<i>GI</i>	<i>PA</i>	<i>WP</i>
Battery Storage Facility													C	C		
Solar Farm	C															C
Substation	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Telecommunications Tower	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Wind Farm	C															C
<i>Transportation</i>	<i>AG</i>	<i>R-L</i>	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>MH</i>	<i>DC</i>	<i>NC</i>	<i>GC</i>	<i>FC</i>	<i>LI</i>	<i>GI</i>	<i>PA</i>	<i>WP</i>
Airport/ Heliport															C	
Parking Area, Off-Street							C		L	C	L	P	P	P		
Parking Structure									L		L					
Railroad Use													C	L	L	
<i>Accessory</i>	<i>AG</i>	<i>R-L</i>	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>MH</i>	<i>DC</i>	<i>NC</i>	<i>GC</i>	<i>FC</i>	<i>LI</i>	<i>GI</i>	<i>PA</i>	<i>WP</i>
Accessory Building	P	P	P	P	P	P	P	P		P	P	P	P	P	P	C
Accessory Dwelling, detached/ attached	L	L	L	L	L	L	L									C
Accessory Retail/Restaurant	C								P	P	P	L	L	C		C

Table 11-501(B): Permitted, Limited, Conditional, and Temporary Uses																
Use	AG	R-L	R-A	R-1	R-2	R-3	R-4	MH	DC	NC	GC	FC	LI	GI	PA	WP
Accessory Structure	P	P	P	P	P	P	P	P		P	P	P	P	P	P	L
Artisan Workshop	P	P	P	P	P	P	P		P	P	P	P	P	P		C
Carwash, Accessory										C	C	C	C	C		
Child Care Center, accessory	C			C	C	C	C			C	C	C	C	C	C	C
Drive-Through									C	C	L					C
In-Home Child Care	L	L	L	L	L	L	L									C
Gaming Service										L	L	L	L			
Home Occupation	L	L	L	L	L	L	L	L								C
Office								P	P	P	P	P	P	P	P	
Outdoor Activity/ Operation/Storage, Accessory											C	C	C	C		
Outdoor Dining/Drinking									L	L	L					C
Outdoor Display/ Sale of Merchandise										L	L	L	L	L		
Solar Energy Collection System, canopy							C		L	L	P	P	P	P	P	L
Solar Energy Collection System, ground mounted	L	L	L	L	L	L	L	L		L	L	L	L	L	L	C
Solar Energy Collection System, roof mounted	P	P	P	P	P	P	P	P	L	P	P	P	P	P	P	L
<i>Temporary</i>	<i>AG</i>	<i>R-L</i>	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>MH</i>	<i>DC</i>	<i>NC</i>	<i>GC</i>	<i>FC</i>	<i>LI</i>	<i>GI</i>	<i>PA</i>	<i>WP</i>
Carnival/Fair	T										T					
Construction Related	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	
Farmers Market	T								T	T	T					C
Garage/Yard Sale	T	T	T	T	T	T	T	T								L
Seasonal Sales	T								T	T	T	T	T			

**11-502. Residential Limited and Conditional Use Specific Standards****A. All Limited and Conditional Uses.**

1. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise.
2. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.
3. All Limited and Conditional Uses located in a Wellhead Protection Overlay District require approval and must be within the Fremont City Limits and connected to City of Fremont water and sewer services.

**B. Duplex.**

1. Duplexes shall be oriented with at least one (1) primary entrance toward the designated front lot line.
2. Attached garages located on the primary façade shall:
  - a. Be setback a minimum of twenty (20) feet from the property line.
  - b. Be offset from the rest of the facade by a minimum of two (2) feet.
3. Exterior building cladding materials shall be time- and weather-tested materials and techniques such as but not limited to masonry, stone veneer systems, stucco, precast panels with inlaid or stamped brick texture, vinyl, cement board, wood, or smart board siding.
4. In the R-1 District, duplexes or attached single-family units are only permitted if shown on the plat at the time of subdivision platting.

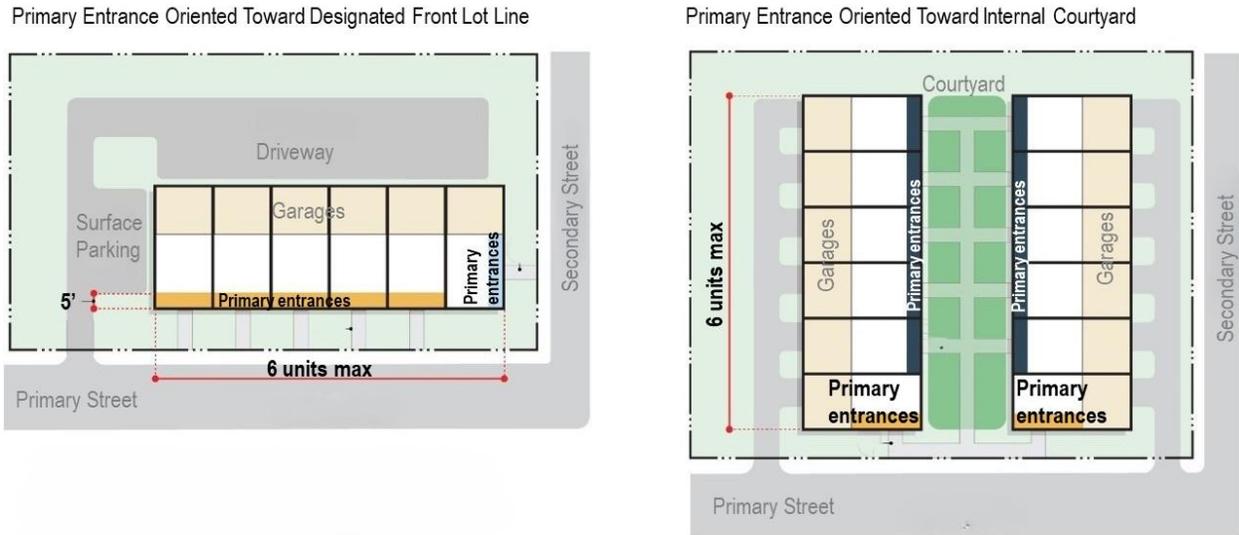
**C. Rowhomes.**

1. Rowhomes shall be oriented with their primary entrances either:
  - a. Toward the designated front lot line. The primary entrance of end unit rowhomes on corner lots may be oriented toward the designated front or street side lot line.
  - b. Toward an internal courtyard space. The primary entrance of end unit rowhomes closest to the designated front lot line shall be oriented toward the designated front lot line.
2. Individual rowhome units shall be articulated through the exterior design of the rowhome cluster. This can be accomplished through dormers, porches, vertical design elements, varying roof forms, or other architectural devices.
3. The maximum number of units in a rowhome cluster shall be six (6).
4. Attached garages located on the primary façade shall:
  - a. Be setback a minimum of twenty (20) feet from the property line.
  - b. Be offset from the rest of the facade by a minimum of two (2) feet.
5. All additional off-street parking required in this UDC shall be located to the rear or interior side of the primary building and shall be setback a minimum of five (5) feet from the front and street side elevations of the primary building.
6. Exterior building cladding materials shall be time- and weather-tested materials and techniques such as but not limited to masonry, stone veneer systems, stucco, precast panels with inlaid or stamped brick texture, vinyl, cement board, wood, or smart board siding.
7. In the DC District:
  - a. Not permitted on property south of Military Avenue adjacent to Main Street, and Broad Street and

Park Avenue north of 4th Street.

- b. Rowhomes with ground floor commercial uses are permitted anywhere in the DC District.
- 8. In the R-1 District, rowhomes are only permitted if shown on the plat at the time of subdivision platting
- 9. Off-street guest parking of one (1) space per every three (3) units shall be provided in all residential districts

**Figure 11-502(C): Rowhome Design Standards**



**D. Mobile/Manufactured Home parks prior to adoption of this UDC.**

- 1. A mobile/manufactured home park shall have a minimum area of ten (10) acres.
- 2. Each mobile/manufactured home shall be set back from any other mobile/manufactured home or accessory building/structure by a minimum of ten (10) feet.
- 3. New housing units shall meet all floodplain requirements.
- 4. Units shall be permanent dwellings meeting HUD requirements for construction.

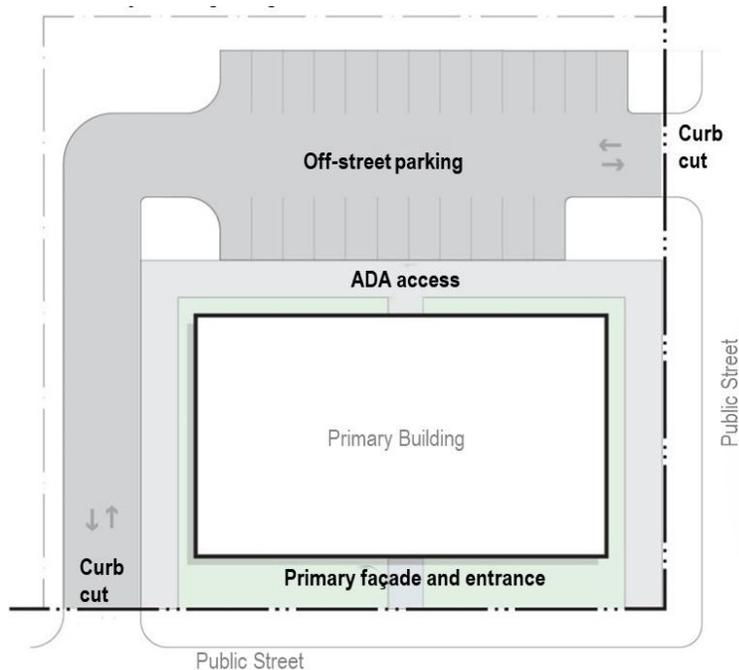
**E. Manufactured Home Subdivisions.** Manufactured home subdivisions shall meet all subdivision requirements of this UDC and shall be connected to City water and sewer utilities.

**F. Multifamily Building, all units.**

- 1. The building's primary façade and principal entrance shall be oriented toward a public street.
- 2. A maximum of one (1) curb cut shall be permitted per street frontage unless otherwise approved by the Public Works Director.
- 3. Off-street parking required in this UDC shall be located in the rear and/or interior side of the primary building. One (1) row of off-street parking can be between the primary building and the street. Off-street parking located in the interior side yard shall be set back a minimum of five (5) feet from the front elevation of the primary building.
- 4. ADA compliant pedestrian walkways shall be provided to all building entries and parking areas and shall connect to the sidewalk at the street frontage.

5. Service areas, dumpsters, utilities, and the required non-vegetative screening of these features shall not be visible from rights-of-way.
6. Multifamily uses shall operate in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.
7. In the DC District:
  - a. Not permitted on property south of Military Avenue adjacent to Main Street, and Broad Street and Park Avenue north of 4th Street.
  - b. Multifamily Buildings with ground floor commercial uses are permitted anywhere in the DC District.

**Figure 11-502(F): Multifamily Building Design Standards**



**G. Multifamily Complex.**

1. Multifamily complexes shall have a minimum of two (2) points of ingress and egress.
2. The primary entrance and front façade of buildings within a multifamily complex shall be oriented towards the following, listed in priority order:
  - a. Perimeter streets,
  - b. Primary internal streets,
  - c. Parks or other common open space,
  - d. Secondary internal streets, or
  - e. Parking areas only if approved by the Planning Director.

**11-503. Institutional Limited and Conditional Use Specific Standards****A. All Limited and Conditional Uses.**

1. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise.
2. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.
3. All Limited and Conditional Uses located in a Wellhead Protection Overlay District require approval and must be within the Fremont City Limits and connected to City of Fremont water and sewer services.

**B. Cemetery.**

1. The minimum lot size of a cemetery shall be fifteen (15) acres.
2. Cemeteries shall comply with all applicable state and local laws and regulations.

**C. Educational Facility - College, University, Vocational Schools.** Any educational facility building that exceeds the height of an adjacent residential dwelling by more than one (1) story shall provide at least one (1) of the height transitions detailed below:

1. Provide a step down in height along the shared property line to meet the height of the building on an applicable property for a minimum of fifty (50) percent of the façade.
2. Increase the setback by ten (10) feet for each story exceeding the height of the adjacent residential dwelling. The increased setback shall be applied to the building façade adjacent to the residential dwelling.
3. Provide a Landscape Transition Zone at the subject property line adjacent to the residential dwelling.

**D. Educational Facility – Primary and Secondary Schools.** Any educational facility building that exceeds the height of an adjacent residential dwelling by more than one (1) story shall provide at least one (1) of the height transitions detailed below:

1. Provide a step down in height along the shared property line to meet the height of the building on an applicable property for a minimum of fifty (50) percent of the façade.
2. Increase the setback by ten (10) feet for each story exceeding the height of the adjacent residential dwelling. The increased setback shall be applied to the building façade adjacent to the residential dwelling.
3. Provide a Landscape Transition Zone according to Section 11-603: *Landscape*, at the subject property line adjacent to the residential dwelling.

**E. Institutional Residential.** RESERVED**F. Health Care Facility.** RESERVED**G. Health Care Service.** RESERVED**H. Health Clinic.** RESERVED**I. Home Health Agency Office.** RESERVED

**11-504. Place of Assembly Limited and Conditional Use Specific Standards****A. All Limited and Conditional Uses.**

1. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise.
2. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.
3. All Limited and Conditional Uses located in a Wellhead Protection Overlay District require approval and must be within the Fremont City Limits and connected to City of Fremont water and sewer services.

**B. Indoor Place of Assembly.**

1. All principal uses occur indoors and are conducted in a completely enclosed building with no openings other than pedestrian entrances and stationary glass windows, facing any residential district or use.
2. Where limited or conditional in residential districts, uses are designed with no more than ten thousand (10,000) sq ft of gross floor area and parking is located in the rear or side yard.

**C. Outdoor Place of Assembly.**

1. The use, measured from the developed part of the site, is six hundred (600) feet from residential districts and uses.
2. No sound to adjacent residential districts shall be over:
  - a. Seventy (70) dBA between the hours of 10:00 a.m. and 9:00 p.m.
  - b. Sixty (60) dBA between the hours of 9:00 p.m. and 11:00 p.m.
  - c. Forty (40) dBA between the hours of 11:00 p.m. and 10:00 a.m.
3. All lighting is shielded to prevent the direct glare of beams onto any adjacent residential district or use.
4. Access to service and parking areas for over fifty (50) vehicles is from a collector or arterial street or a service road.
5. Recreational Stadiums/Complexes.
  - a. A Landscape Transition Zone, as detailed in Section 11-603: *Landscape*, shall be required along lot lines adjacent to any parcel in a nonresidential district.
  - b. A Landscape Transition Zone, as detailed in Section 11-603: *Landscape*, shall be required along lot lines adjacent to any parcel in a residential district.
  - c. A parking study shall be conducted to determine the minimum required number of off-street parking spaces.
  - d. A traffic study shall be required to identify traffic mitigation measures to be completed by the developer.
  - e. Amplified noise shall not be audible at the property line.
  - f. Outdoor lights shall be oriented inward to the site and shall not exceed maximum light levels as established in Section 11-607: *Outdoor Lighting*. Lights shall be turned off no later than 10:00 p.m. on weekdays and 11:00 p.m. on Friday and Saturday.
  - g. Hours of operation shall be between 7:00 a.m. and 10:00 p.m. weekdays and 7:00 a.m. and 11:00 p.m. on weekends.

**11-505. Recreation and Amusement Limited and Conditional Use Specific Standards****A. All Limited and Conditional Uses.**

1. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise.
2. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.
3. All Limited and Conditional Uses located in a Wellhead Protection Overlay District require approval and must be within the Fremont City Limits and connected to City of Fremont water and sewer services.

**B. Campgrounds.**

1. A Landscape Transition Zone, as detailed in Section 11-603: *Landscape*, shall be required along lot lines adjacent to any parcel in a nonresidential district.
2. A Landscape Transition Zone, as detailed in Section 11-603: *Landscape*, shall be required along lot lines adjacent to any parcel in a residential district.
3. Plumbing systems and equipment shall be constructed, installed, and maintained in accordance with the most recently adopted version of the plumbing code with a minimum number of fixtures provided in accordance with R-2 building code occupancy classifications (occupancy loads are calculated at a rate of four (4) occupants per site).
4. A septic tank with lateral fields and mound systems shall be prohibited in the Platte River floodplain and floodway. All waste shall be stored in a holding tank and disposed of off-site in accordance with local, state, and federal regulations.

**C. Driving Range.**

1. The perimeter of a driving range shall be fully enclosed in netting not less than thirty-two (32) feet in height, with the maximum height to be established in the Conditional Use process as specified in Article 10: *Zoning Procedures*.
2. The netting shall be at least ninety (90) percent transparent.
3. The driving range shall be at least one thousand (1,000) feet from a residential district.

**D. Golf Course.**

1. A Landscape Transition Zone, as detailed in Section 11-603: *Landscape*, shall be required along lot lines adjacent to any parcel in a nonresidential district.
2. A Landscape Transition Zone, as detailed in Section 11-603: *Landscape*, shall be required along lot lines adjacent to any parcel in a residential district.

**E. Health Club. RESERVED****F. Indoor Commercial Amusement. RESERVED****G. Indoor Recreation. RESERVED****H. Personal Camp Site.**

1. The required front yard setback for personal camp sites shall be calculated as the average of the existing front yard setbacks on the same block. However, in no instance shall a personal camp site be located closer to the front lot line than an existing building or structure.
2. A minimum of one thousand five hundred (1,500) square feet of lot area shall be provided per camping unit.
3. A maximum of two (2) camping units shall be permitted per lot.

4. A camping unit shall not be occupied for more than one hundred eighty (180) continuous days in any calendar year.
5. No porches, lean-tos, or additions shall be constructed onto or immediately adjacent to a camping unit.
6. A septic tank with lateral fields and mound systems shall be prohibited in the Platte River floodplain and floodway. All waste shall be stored in a holding tank and disposed of off-site in accordance with local, state, and federal regulations.

## 11-506. Lodging Limited and Conditional Use Specific Standards

### A. All Limited and Conditional Uses.

1. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise.
2. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.
3. All Limited and Conditional Uses located in a Wellhead Protection Overlay District require approval and must be within the Fremont City Limits and connected to City of Fremont water and sewer services.

### B. Lodging House.

1. The property must be developed, maintained, and operated so that the principal building, accessory buildings, yards, drive, and street frontage complement the appearance and character of its adjacent neighborhood and do not detract from abutting properties.
2. Cooking facilities shall not be permitted in any of the guest rooms.

### C. Hotel. RESERVED

### D. Motel. RESERVED

### E. Short Term Rental.

1. A maximum of two (2) guests per bedroom shall be allowed.
2. The owner of the property being rented must live in the City of Fremont's zoning jurisdiction.

## 11-507. Retail Limited and Conditional Use Specific Standards

### A. All Limited and Conditional Uses.

1. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise.
2. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.
3. All Limited and Conditional Uses located in a Wellhead Protection Overlay District require approval and must be within the Fremont City Limits and connected to City of Fremont water and sewer services.

### B. General Retail.

1. When adjacent to residential districts, all outside storage or display of merchandise or other materials or equipment shall be screened from view at eye level from a public street or adjacent property.

### C. Pawn, Vape, Smoke and Dispensary Shops

1. Must be located at least six hundred (600) feet from any residential district boundary or use.
2. Must be located at least six hundred (600) feet from another pawn, vape, or marijuana dispensary use.

### D. Wholesale Establishment. RESERVED

**11-508. Service Limited and Conditional Use Specific Standards****A. All Limited and Conditional Uses.**

1. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise.
2. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.
3. All Limited and Conditional Uses located in a Wellhead Protection Overlay District require approval and must be within the Fremont City Limits and connected to City of Fremont water and sewer services.

**B. Adult Day Service.**

1. An off-street vehicle drop-off and pick up zone shall be provided.
  - a. An off-street vehicle drop-off and pick up zone shall include a minimum of one (1) stacking lane which can accommodate at least three (3) stacking spaces.
  - b. Stacking spaces and lanes for an off-street vehicle drop-off and pick-up zone shall not impede on- and off-street traffic movement, shall not cross off-street parking areas or drive aisles, and shall not impede pedestrian access to a public building entrance.
  - c. Stacking lanes shall be separated from off-street parking areas. Individual lanes shall be striped, marked, or otherwise delineated.
  - d. Stacking lanes shall have a minimum depth of twenty (20) feet per stacking space and the following minimum lane widths:
    - I. One (1) lane: twelve (12) feet.
    - II. Two (2) or more lanes: ten (10) feet per lane.

**C. Adult Establishments.** No person shall establish, operate, or cause to be operated an adult establishment within:

1. One thousand (1,000) feet of another adult establishment.
2. One thousand (1,000) feet of a residential district.
3. One thousand (1,000) feet of any parcel containing a dwelling unit.
4. One thousand (1,000) feet of any parcel containing an educational facility - primary or secondary or a place of assembly.
5. One thousand (1,000) feet of any parcel containing a public park or open space.
6. The foregoing measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the adult establishment to the closest point on a property boundary of another adult establishment, a residential district, or a parcel containing a dwelling unit, an educational facility, a place of assembly, or a publicly designated park or open space.
7. Fremont Municipal Code, Chapter 10, Article 11 contains additional regulations that govern adult establishments. The City's purpose, findings, and rationale for regulating adult establishments are set forth in that Article and are incorporated here by reference.
8. Upon request from the City Clerk, the Planning Director shall approve or deny a certificate of zoning compliance for an adult establishment that has filed a completed application for an adult establishment license with the City Clerk under Chapter 10, Article 11 of the Fremont Municipal Code. If the location for the adult establishment is in an allowed district and complies with the separation requirements in this Section, the Planning Director shall issue the certificate of zoning compliance simultaneously with the adult establishment license issued by the City Clerk.

**D. Child Care Center.**

1. All child care centers shall be licensed by the State.
2. An off-street vehicle drop-off and pick-up zone may be provided subject to the stacking standards for drive-throughs in Section 11-601: *Off-Street Parking and Loading*.
  - a. Outdoor play areas shall:
    - I. Be connected to the principal building by a pedestrian walkway with a minimum width of five (5) feet.
    - II. Be fully enclosed by a fence or wall with a minimum opacity of fifty (50) percent.

**E. Communication Services.**

1. They are located greater than three hundred (300) feet from any residential district boundary, as measured from the boundary lines nearest each other, unless separated from such district by a Landscape Transition Zone or collector or arterial street.
2. Primary access to the site is from a collector or arterial street.

**F. General Service.**

1. In the DC District, no General Service use shall have a ground floor area more than twelve thousand (12,000) sq ft.

**G. Financial Institution. RESERVED**

**H. Funerary Services.**

1. Primary access to the site is from a collector or arterial street.
2. Adequate off-street parking is provided for services.

**I. Large Animal Boarding Facility and Veterinary Services.**

1. No boarding facility or outdoor livestock pens shall be located within three hundred (300) feet from any property line of any residential district or use, or institutional use.
2. The use shall be conducted primarily within a fully enclosed building designed with noise resistant materials. Plans and specifications for noise resistant materials shall be approved by the City through the site plan approval process.
3. Outdoor livestock pens shall be located in interior side or rear yards.
4. Drainage from outdoor livestock pens shall be directed to gravel, grass, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.

**J. Office**

1. In the DC District, no General Office use shall have a ground floor area more than twelve thousand (12,000) sq ft.
2. In industrial districts, primary access to the site is from a collector or arterial street.

**K. Office Complex/Business Park.**

1. Only permitted as a Limited or Conditional Use as part of a PD-O District.

**L. Pet Daycare.**

1. Overnight animal boarding shall be prohibited.
2. A commercial dog and cat operator license issued by the State of Nebraska shall be required.
3. Outdoor areas for the exercise of animals, and/or other activity shall be enclosed by an opaque fence with a minimum height of five (5) feet.

4. Outdoor areas shall be set back as far as possible from all residential properties, with a minimum setback of fifty (50) feet. However, the City Council may consider smaller setbacks in areas with high levels of noise, such as those impacted by railroad tracks, highways, or near airport runways, provided that the operator can demonstrate how they will mitigate noise impacts in the outdoor area.
5. All litter and waste shall be contained and controlled on site by having appropriate flushing drains and other physical elements to properly dispose of cleaning waste from the boarding area. Solid waste shall be removed from outdoor areas after each use of the area.
6. Drainage from outdoor areas shall be directed to gravel, grass, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.
7. All litter and waste shall be contained and controlled on site by having appropriate flushing drains and other physical elements to properly dispose of cleaning waste from the boarding area.
8. The use shall be conducted within a fully enclosed building designed with noise resistant materials. Plans and specifications for noise resistant materials shall be approved by the City through the building permit approval process.
9. No outside kennels, play areas or waste areas are permitted in the Wellhead Protection Overlay District.

**M. Small Animal Boarding Facility/Kennel and Veterinary Services.**

1. A commercial dog and cat operator license issued by the State of Nebraska shall be required.
2. No livestock or large animals shall be boarded, treated, or kept on the premises.
3. The use shall be conducted primarily within a fully enclosed building designed with noise resistant materials (plans and specifications for noise resistant materials shall be approved by the City through the building permit approval process).
4. All litter and waste shall be contained and controlled on site by having appropriate flushing drains and other physical elements to properly dispose of cleaning waste from the boarding area.
5. Outdoor areas are an allowed accessory use.
  - a. Drainage from outdoor areas shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.
  - b. Outdoor areas shall be set back as far as possible from all residential properties, with a minimum setback of one hundred fifty (150) feet. However, the City Council may consider smaller setbacks in areas with high levels of noise, such as those impacted by railroad tracks, highways, or near airport runways, provided that the operator can demonstrate how they will mitigate noise impacts in the outdoor area.
  - c. Solid waste will be removed from the outdoor area after each use of the area.
  - d. All outdoor areas shall be screened by an opaque fence or wall at least six (6) feet in height. Slatted chain link fences are not allowed.
  - e. Use of outdoor areas between the hours of 10:00 p.m. and 7:00 a.m. is prohibited.
6. The boarding area must be air-conditioned and heated so that windows, doors, or other openings can be closed at any time.

## 11-509. Eating and Drinking Limited and Conditional Use Specific Standards

### A. All Limited and Conditional Uses.

1. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise.
2. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.
3. All Limited and Conditional Uses located in a Wellhead Protection Overlay District require approval and must be within the Fremont City Limits and connected to City of Fremont water and sewer services.

### B. Bar/Tavern. RESERVED

### C. Brewery/Winery/Distillery Tasting Room. RESERVED

### D. Micro Brewery/Winery/Distillery. RESERVED

### E. Restaurant.

1. In industrial districts, primary access to the site is from a collector or arterial street.

## 11-510. Vehicle Related Limited and Conditional Use Specific Standards

### A. All Limited and Conditional Uses.

1. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise.
2. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.
3. All Limited and Conditional Uses located in a Wellhead Protection Overlay District require approval and must be within the Fremont City Limits and connected to City of Fremont water and sewer services.

### B. Auto Sales/Rental and Service.

1. A license issued by the State of Nebraska shall be required prior to the establishment or expansion of an auto sales/rental and service use.
2. A Landscape Transition Zone, as detailed in Section 11-603: *Landscape*, shall be required along lot lines adjacent to any parcel.
3. All outdoor display areas for sales, rental, and service shall be improved with all-weather surfaces.
4. Parking lots used for the outdoor display of motor vehicles for sale and/or rent may cluster required landscape elements to preserve views to motor vehicles offered for sale and/or rent.
5. No vehicles shall be parked within the public right-of-way or required yards.
6. Repair bays shall not front adjacent public rights-of-way or face a residential use or district.
7. No more than one (1) elevated display shall be used, raising the vehicle no more than three (3) feet off the ground.
8. Accessory uses and structures, such as car wash facilities and their incidental functions (vacuums and air compressors) shall follow the same standards as if they were a primary use.
9. No existing buildings shall be occupied or re-used for vehicle sales, rental, and service unless all requirements of this UDC are met.
10. Drainage from outdoor storage and/or activity areas shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.

### C. Carwash and Carwash, Accessory

1. A Landscape Transition Zone, as detailed in Section 11-603: *Landscape*, shall be required along lot lines adjacent to any parcel.
2. Hours of operation for any services on site shall be restricted to between 7:30 a.m. and 10:00 p.m.
3. All car wash facilities and accessory equipment such as vacuums, dryers, accessory buildings, etc. shall be setback a minimum of fifty (50) feet from any public rights-of-way or residential uses or districts. Such facilities and equipment shall be enclosed within a building, with the exception of self-service vacuum units.
4. All full-service or conveyor-based carwash facilities shall be equipped with a water recycling system that shall recycle a minimum of fifty (50) percent of the water being used by the facility.
5. Drainage from outdoor storage and/or activity areas shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.

6. There shall be a fence along property lines adjacent to residential uses or districts so that noise generated is less than seventy (70) decibels measured at the property lines.
7. Automatic car wash facilities shall provide stacking for five (5) or more vehicles per lane.
8. Self-service manual car wash facilities shall provide stacking for three (3) or more vehicles per stall.

**D. Major and Minor Automotive Repair.**

1. A Landscape Transition Zone, as detailed in Section 11-603: *Landscape*, shall be required along lot lines adjacent to any parcel in a residential district.
2. All activities shall take place entirely within a fully enclosed building.
3. Outdoor storage of vehicles shall be on an all-weather surface. Surfacing and maintenance shall be within an enclosed fence or wall at least six (6) feet in height.
4. Drainage from outdoor storage and/or activity areas shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.
5. In the DC District, the use cannot have any property frontage along Main Street and 6th Street between Broad Street and Main Street

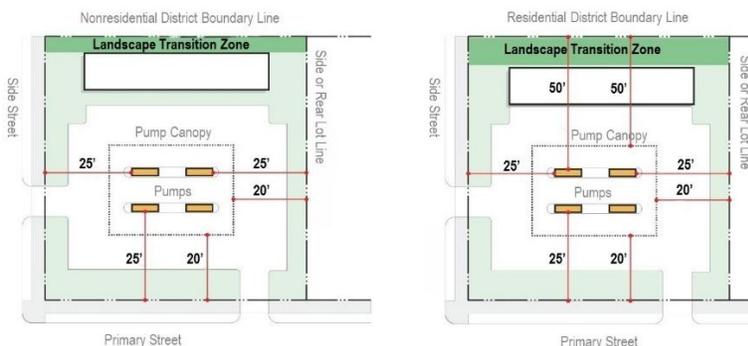
**E. Truck Stop.**

1. Truck stops shall be located within one-half (1/2) mile of a highway interchange.
2. Truck stops shall meet all standards for vehicle fuel sales as detailed in Section 11-510(F): *Vehicle Fuel Sales*, with the exception of Subsection (4) for the height of fuel pump canopies.

**F. Vehicle Fuel Sales.**

1. All fuel pumps shall be set back a minimum of twenty-five (25) feet from all lot lines.
2. All fuel pump canopies shall be located a minimum of twenty (20) feet from all lot lines.
3. All fuel pumps and fuel pump canopies shall be located a minimum of fifty (50) feet from any residential district.
4. Fuel pump canopies shall have a maximum height of seventeen (17) feet.
5. Fuel pump canopies shall be lit with lighting that is shielded from above.
6. A Landscape Transition Zone, as detailed in Section 11-603: *Landscape*, shall be required along lot lines adjacent to any parcel.
7. Drainage from outdoor storage and/or activity areas shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.

**Figure 11-510(F): Vehicle Fuel Sales Standards**



**11-511. Agricultural Limited and Conditional Use Specific Standards****A. All Limited and Conditional Uses.**

1. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise.
2. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.
3. There is no animal husbandry, the use of chemicals is minimized, and there is no storage of petroleum products.

**B. Crop Production and Indoor Agriculture.**

1. Animal husbandry is located greater than three hundred (300) feet from the R-3, R-4, MH, NC, GC, or DC District boundaries.

**C. Nursery, Retail and Wholesale.**

1. They are located greater than three hundred (300) feet from either R-1, R-2, R-3, R-4, MH, NC, GC, or DC District boundaries, as measured from the boundary lines nearest each other, unless separated from such district by a Landscape Transition Zone or a collector or arterial street.
2. Primary access to the site is from a collector or arterial street.

## 11-512. Industrial Limited and Conditional Use Specific Standards

### A. All Limited and Conditional Industrial Uses.

1. **External Impacts.** All manufacturing or fabrication processes that are reasonably likely to produce material, detrimental off-site impacts, including glare, dust, odors, air contaminants, vibrations, and noise impacts, shall be sufficiently enclosed to mitigate the impacts. For the purposes of this standard, "sufficiently enclosed" may include a Landscape Transition Zone with walls, fences, and/or earthen berms necessary to accomplish the mitigation objective.
2. **Truck Traffic.** Industrial uses that require semi-trailer truck service shall provide a truck routing plan that demonstrates compliance with the following standards:
  - a. The use shall take access from a street of sufficient width and construction to accommodate the required semi-trailer truck service. Such access shall be evaluated from the point of ingress and egress to the parcel proposed for development to the point of intersection of the proposed truck route with an arterial street or highway, whichever is closer.
  - b. The use shall not be located to require semi-trailer trucks to travel on local streets that traverse residential zoning districts.
  - c. Truck parking, loading, and maneuvering areas shall be constructed of Portland Cement concrete. All other service and storage areas shall have an all-weather surface for a distance of fifty (50) feet from the public street right-of-way, which minimizes the generation of dust and sediment. Any remaining lay down yards or storage areas may have gravel surfaces.
3. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.
4. All Limited and Conditional Uses located in a Wellhead Protection Overlay District require approval and must be within the Fremont City Limits and connected to City of Fremont water and sewer services.

### B. Artisan Manufacturing.

1. Gross floor area shall not exceed five thousand (5,000) square feet in the DC or NC Districts.
2. Outdoor storage shall be prohibited in the DC, NC, and GC Districts. In the FC, LI, GI, and AG Districts, outdoor storage shall be on an all-weather surface and fully enclosed by an eight (8) foot high opaque fence.
3. Artisan manufacturing shall not create or cause any perceptible noise, odor, smoke, electrical interference, or vibrations that constitute a public or private nuisance to neighboring properties.
4. Manufacturing areas are encouraged to be visible from retail areas.
5. In the DC, NC, GC, and AG Districts, residential units may be permitted within the same unit/leasable area as the artisan manufacturing use but shall be limited to twenty-five (25) percent of the total area of the building.

### C. Brewery/Winery/Distillery. RESERVED

### D. Composting/Recycling Facility.

1. A Landscape Transition Zone, as detailed in Section 11-603: *Landscape*, shall be required along lot lines adjacent to any parcel.
2. Outside storage areas:
  - a. Shall be in the side or rear yard, provided they do not abut a residential district or use.
  - b. Shall not be used for storage of solid or liquid waste, inoperable machinery or vehicles, or materials that generate dust or attract pests.

- c. Shall be on an all-weather surface.
  - d. Shall be enclosed by an approved fence or wall with a minimum height of six (6) feet.
3. Shall not contain stacked or displayed materials that exceed the height of a fence or wall.

**E. Equipment Rental, Sales, and Service.**

1. A Landscape Transition Zone, as detailed in Section 11-603: *Landscape*, shall be required along lot lines adjacent to any parcel.
2. The use is located so that truck traffic can access a collector or arterial street or highway without traveling on a public right-of-way within or adjacent to any residential district or use, or adjacent to any park or recreational area or facility.
3. Outside storage areas:
  - a. Shall be in the side or rear yard, provided they do not abut a residential district or use.
  - b. Shall not be used for storage of solid or liquid waste, inoperable machinery or vehicles on a permanent basis, or materials that generate dust or attract pests.
  - c. Shall be on an all-weather surface.
  - d. Shall be enclosed by an approved fence or wall with a minimum height of six (6) feet.

**F. Extractive Industry.**

1. Prior to the establishment of an extractive industry use, a grading and drainage plan shall be approved by the City Engineer.
2. A traffic study shall be required and identified mitigation measures for truck traffic, dust control, and street maintenance shall be required to be completed by the developer.

**G. Self-Service Storage Facility.**

1. A Landscape Transition Zone, as detailed in Section 11-603: *Landscape*, shall be required along lot lines adjacent to any residential district.
2. Outdoor storage, with the exception of recreational vehicles, boats, and other recreational equipment as regulated in Subsection (H): *Storage Yard*, below, shall be prohibited.
3. Outdoor storage of recreational vehicles, boats, and other recreational equipment shall be allowed if:
  - a. Screened with a solid wall or opaque fence constructed from materials approved by the Planning Director and not less than six (6) feet or more than eight (8) feet in height.
  - b. Shall be in the side or rear yard, provided they do not abut a residential district or use.
  - c. Shall not be used for storage of solid or liquid waste, inoperable machinery or vehicles on a permanent basis, or materials that generate dust or attract pests.
  - d. Shall be on an all-weather surface.
  - e. Shall be enclosed by an approved fence or wall with a minimum height of six (6) feet.
4. The storing of hazardous or toxic materials is prohibited.
5. No storage space shall be used for residential occupancy, business sales or operation, the storage of commercial or industrial inventory or raw materials, or the operation of machinery.
6. In the WP-O District, the area shall be surrounded by a twenty-five (25) foot wide bio-swale approved by the Department of Utilities.

**H. Storage Yard.**

1. Storage yards shall be surfaced with an approved all weather surface material. Partially paved or unpaved storage yards shall be prohibited.
  2. The following minimum screening requirements shall apply to storage yards which are visible from the right-of-way of an existing or proposed arterial or collector roadway or from a property in any district other than the GI District.
    - a. A solid wall or opaque fence constructed from materials approved by the Planning Director and not less than six (6) feet and not more than eight (8) feet in height shall be erected to screen permanent outdoor storage areas.
    - b. A landscape strip, not less than five (5) feet wide shall be located in front of the wall. The landscape strip shall be improved with a Landscape Transition Zone per Section 11-603: *Landscape*. Drainage shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.
- I. Wrecking Yard/Salvage Yard.**
1. Wrecking/salvage yards shall be surfaced with an approved all weather surface material. Partially paved or unpaved wrecking/salvage yards shall be prohibited.
  2. The following minimum screening requirements shall apply to wrecking/salvage yards which are visible from the right- of-way of an existing or proposed arterial or collector roadway or from a property in any district other than the GI District.
    - a. A solid wall or opaque fence constructed from materials approved by the Planning Director and not less than six (6) feet and not more than eight (8) feet in height shall be erected to screen the wrecking yard/salvage yard. Nothing within the wrecking/salvage yard shall exceed the height screening wall with the exception of approved buildings and structures.
    - b. A landscape strip, not less than ten (10) feet wide shall be located in front of the wall. The landscape strip shall be improved with a Landscape Transition Zone per Section 11-603: *Landscape*.
  3. Drainage shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.

## 11-513. Utility Limited and Conditional Use Specific Standards

### A. All Limited and Conditional Uses.

1. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise.
2. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.

### B. Solar Farm.

1. **Height.** The average height of the solar panel arrays shall not exceed fifteen (15) feet.
2. **Storm Water Management.** Fixed freestanding solar energy systems shall be considered impervious, and the property shall be designed to absorb or detain specific runoff with a vegetated ground cover. The impervious cover calculation shall also include the support posts of the panels, any roads or impervious driveway surfaces, parking areas, and buildings on the site.
3. **Buffering.** The use is considered an industrial use for the purposes of Landscape Transition Zone requirements in Section 11-603: *Landscape*, but does not need to be screened from public streets.
4. **Location.** Solar energy systems shall not be placed:
  - a. Where there are designated floodplains, wetlands, or other critical natural resources.
  - b. Where they extend into any easement, right-of-way, or public way regardless of above stated minimum setbacks.
5. **Agricultural District.** In addition to the Conditional Use Permit criteria and those in this Section, the Board of Adjustment shall consider the following:
  - a. Whether the use is proposed in a potential city growth area as identified in the Comprehensive Plan.
  - b. The productivity of any land in agricultural production to be removed.
6. Customer owned on-site power lines shall be buried except where connecting to existing overhead utility lines. This requirement shall not apply to fiber optic connections.
7. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Solar energy systems must be decommissioned if they are not in use for twelve (12) consecutive months. The plan shall include provisions for removing all structures and foundations, restoring soil and vegetation, and ensuring financial resources will be available to fully decommission the site. The City reserves the right to require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure proper decommissioning.

### C. Wireless Telecommunications Equipment and Wireless Telecommunications Towers.

1. **Purpose and Intent.** In accordance with Nebraska State Statute this Subsection creates the framework for the siting of wireless telecommunication facilities in a manner which protects the public health, safety, and general welfare of the community, provides comprehensive service to the community, and implements the City's policies for said facilities, as detailed below. The provisions of this Subsection are in addition to, and do not replace, any obligations an applicant may have under any franchises, licenses, encroachments, or other permits issued by the City.
  - a. Facilitate the comprehensive provision of wireless telecommunication services to the residents and businesses of the City and its Extra-Territorial Jurisdiction.
  - b. Maximize the use of existing and approved telecommunication towers, buildings, and structures to accommodate new wireless telecommunication antennas to minimize the number of telecommunication towers needed to comprehensively serve the community.
  - c. Minimize the number, height, obtrusiveness, and the visual impacts of telecommunications

towers, associated equipment, and buildings.

- d. Direct and allow wireless telecommunication facilities to areas which are least disruptive to residential, park, open space, and greenway uses and to be as unobtrusive and invisible as reasonably possible.
  - e. Ensure that the height of telecommunications towers has the least visual impact and is no greater than required to achieve service area requirements and potential co-location.
  - f. Site telecommunications towers to minimize locations which are visually solitary or prominent when viewed from residential areas or any public way.
  - g. Site telecommunications towers at locations which are obscured by vegetation, tree cover, topographic features, buildings or other structures to the maximum extent feasible.
  - h. Protect views of and vistas from architecturally or historically significant structures and historically significant landscapes so that these architectural or historical resources are not impaired or diminished by the placement of telecommunications towers.
  - i. Avoid potential damage to adjacent properties from telecommunication towers failure through structural design standards and setback requirements.
2. **General Applicability.** The provisions, of this Subsection shall apply to the following:
- a. Wireless telecommunication facilities (towers and associated equipment) that are or will be operated by a licensed wireless telecommunication service provider which consists of the equipment and structures involved in the receiving or transmitting of electromagnetic waves associated with wireless telecommunication services.
  - b. Small wireless telecommunication towers that meet the following characteristics:
    - I. Each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six (6) cubic feet,
    - II. All other wireless equipment associated with the facility is cumulatively no more than twenty-eight (28) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services, and
    - III. An antenna array feature that is attached to a telecommunications tower or building to transmit or receive radio waves. For this Subsection, this does not include antenna dishes or other antenna features on individual homes or businesses that are intended to receive radio or television broadcasts, or internet communication for said use.
3. **Amateur Radio Exemption.** These provisions neither apply to nor shall be construed to apply to Amateur Radio Operators who are licensed to operate a radio or transmitter by the Federal Communications Commission under Part 97 of the Federal Communications Commission's Rules.
4. **Interference with Public Safety Telecommunications.** No new or existing telecommunications service shall interfere with public safety telecommunications. Before the introduction of new services or changes in existing service, telecommunication providers shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.
5. **Compliance with Other Laws.** A telecommunications tower shall be erected and operated in compliance with the most current Federal Communication Commission and Federal Aviation Administration rules and regulations and other applicable federal and state standards. All telecommunications towers shall comply with all ordinances of the City which are not in conflict with this Subsection.

6. **Wireless Telecommunication Facilities Establishment and Siting Alternatives Analysis.**
- a. **Co-location Preference.** The City shall promote the co-location of wireless telecommunications equipment on existing towers, buildings, or utilities elements. New standalone wireless telecommunication facilities (towers) may only be allowed where co-located of said facilities on existing towers, buildings, or public infrastructure elements is deemed infeasible through a siting alternatives analysis.
  - b. **Siting Alternatives Analysis.** For all new, standalone wireless telecommunication towers, the applicant shall provide a siting alternatives analysis to determine whether co-location on existing structures is feasible within the applicant's search ring including information pertaining to the fair market value of similar contracts – this shall be provided as part of the permitting process and submittal requirements pursuant to Article 10: *Zoning Procedures*. The siting alternatives analysis shall determine the feasibility of co-locating the new telecommunication facilities/equipment in the following situations.
    - I. Co-location on existing towers,
    - II. Placement on City-owned structure or building,
    - III. Placement on an existing structure or building, and
    - IV. Construction of a new tower structure or substantial modification of existing structure. The following describes the various co-location situations.
  - c. **Co-location Standards.** The co-location or placement of new telecommunications antennas upon existing telecommunications towers, light poles, and/or buildings.
  - d. **City-owned Structure or Building.** The utilization of existing City-owned structures and buildings for placement of antenna and associated equipment or buildings, including surface-mounted and roof-mounted applications of telecommunication antennas on existing buildings and structure-mounted applications of telecommunication antennas on water towers, electric line transmission towers, or other existing structures.
  - e. **Existing Structure or Building Utilization.** The utilization of all other existing structures and buildings for placement of antenna and associated equipment or buildings, including surface mounted and roof-mounted applications of telecommunication antennas on existing buildings and structure-mounted applications of telecommunication antennas on existing structures.
  - f. **Consulting Option.** As part of the review procedures, the Planning Director shall determine the sufficiency of the information. The City may choose to hire an outside consultant to conduct a third-party review of the siting alternatives analysis in the following situations:
    - I. Where there are disputes of the findings between the applicant and the Planning Director, and/or
    - II. Where expert consultation is deemed necessary to reach conclusions of the analysis. Where the City uses a consultant in its application review, the fee for such services shall be fixed in advance as part of the application fee for a new telecommunications facility.
7. **Telecommunication Tower and Antenna Array Design Standards.** The following design standards apply to new telecommunication towers and associated antenna array facilities. These standards do not apply to co-location activities on existing towers, buildings, or public infrastructure elements.
- a. **Height.** The maximum height of a telecommunications tower, including antenna array, shall be less than two hundred (200) feet above grade, whereas, Small Wireless Telecommunications towers shall be limited to fifty (50) feet above grade.
  - b. **Location.** Telecommunication towers and antenna arrays shall not be located within three hundred (300) feet of an existing or future thoroughfare, as identified in the Fremont Long Range Transportation Plan 2045.

- c. **Guys and Guy Anchors.** All guys and guy anchors shall be located within the buildable area of the lot and shall not be located within any required setback, required landscape area, wetland feature, and watercourse riparian buffer.
- d. **Security Fencing.** Security fencing shall surround the telecommunications tower base, all guy anchors, and equipment. The compound area and all guy anchors shall be secured with a fence of not less than six (6) feet in height nor more than ten (10) feet in height. A security wire (barbed, razor, etc.) may be located on the telecommunications tower-side of the fence but shall not extend above the top of the fence. The type of fence selected shall, in the determination of the Planning Director, be compatible with development in the surrounding area. A chain link fence, if used, shall be black vinyl coated.
- e. **Structural Design.** A telecommunications tower shall be designed and built so as to:
  - I. Be capable of use by at least two (2) wireless communications providers for a telecommunications tower less than eighty (80) feet in height,
  - II. Be capable of use by three (3) or more wireless communications providers for a telecommunications tower of eighty (80) feet in height or greater,
  - III. Accommodate antenna arrays consisting of nine (9) to twelve (12) antennas for each array, provided, however, this regulation shall not apply to slick antenna applications,
  - IV. Locate such antenna arrays within fifteen (15) vertical feet of each other,
  - V. Have no more than three (3) degrees of twist and sway at the top elevation,
  - VI. Provide internal cable routing for all tapering monopole telecommunication towers, and
  - VII. Meet or exceed associated state and federal structural standards relating to telecommunication standards (e.g., EIA-222)
- f. **Signs Prohibition.** No lettering, symbols, images, trademarks, signs, or advertising shall be placed on or affixed to any part of a telecommunications tower, antenna array or antenna, other than as required by Federal Communications Commission regulations regarding tower registration or other applicable law.
- g. **Falling Safety.** New wireless telecommunications towers shall be designed and located on the property in a manner that would avoid safety hazards on surrounding uses in the event of a fall. If the telecommunications tower should fall along its longest dimension, the tower shall remain within the lot lines and avoid dwelling units, habitable structures, public street rights-of-way, utility lines, and other telecommunications towers.
- h. **Lights.** No signals, lights, or other illumination shall be permitted on telecommunications towers unless required by the Federal Communications Commission, the Federal Aviation Administration, or the City.
- i. **Engineering Compliance for Modifications.** If any additions, changes, or modifications are to be made to a telecommunications tower, the Planning Director may require proof, through the submission of engineering and structural data, that the addition, change or modification conforms to structural wind load and all other requirements of the City's Building Code.

## 8. Separation and Location.

- a. **New Wireless Telecommunication Towers.** New telecommunication towers are subject to the following minimum separation radius from another telecommunications tower. In determining the required separation between telecommunication towers of different heights, the required separation for the taller tower shall apply.
  - I. Quarter-mile radius for proposed telecommunications towers less than eighty (80) feet in height,
  - II. Half-mile radius for proposed telecommunications towers of eighty (80) feet in height or greater

but less than one hundred twenty (120) feet in height, or

- III. One mile radius for proposed telecommunications towers one hundred twenty (120) feet in height or greater.
  - b. **Deviations.** As part of a Conditional Use Permit review, the City may authorize deviations from these separation standards due to special circumstances relating to natural features, scarcity of available land, and telecommunications operating standards.
9. **Wireless Telecommunications Antennas Mounted on Existing Buildings or Structures.** The following design standards apply to antennas associated with wireless communication operations and mounted on existing buildings and structures.
- a. **Roof-Mount Elements.** Roof-mounted wireless telecommunications antennas are permitted on buildings and structures in all districts, except for single-family detached, duplex, and rowhouse uses. Said elements shall be subject to the following standards.
    - I. Whip telecommunication/antenna features (an antenna which transmits signals in three hundred sixty (360) degrees) shall not exceed the height of the building by more than fifteen (15) feet and shall be no closer than fifteen (15) feet to the perimeter of the building.
    - II. Non-whip telecommunication/ antenna features shall not exceed the height of the building by more than ten (10) feet and shall be no closer than ten (10) feet to the perimeter of the building.
    - III. The telecommunications antenna and associated equipment located on buildings shall be screened in elevation view with enclosures or façades having an appearance that blends with the building on which they are located; and be located so they are not overtly visible from an adjacent public right of way.
  - b. **Surface-Mount Elements.** Surface-mounted telecommunications antennas (an antenna attached to a building exterior wall) are permitted on buildings or structures in all districts and subject to the following standards.
    - I. Telecommunications/antenna features shall be mounted flush with the exterior of the building or structure so that it projects no more than thirty (30) inches from the surface to which it is attached.
    - II. The telecommunications/ antenna appearance shall blend with the surrounding surface of the building or structure in terms of color and materials.
    - III. Surface-mount elements are subject to applicable design standards in National Register listed properties and historic districts, local historic districts, and locally designated historic landmarks.
  - c. **Elements Attached to Other Existing Structures.** Telecommunications antennas are permitted on existing utility, lighting, telecommunications towers, and other structures in all districts and subject to the following standards.
    - I. Existing utility, lighting, telecommunications towers, and other structures used to affix telecommunication/ antenna features shall not exceed fifty (50) feet in height above grade.
    - II. The telecommunications antenna shall not exceed the height of the existing structure by more than ten (10) feet for a non-whip antenna or fifteen (15) feet for a whip antenna.
    - III. Existing structures may be rebuilt/ modified to support the load of the new telecommunications antenna and subject to the City's building permitting standards.
    - IV. Existing structure mounted elements are subject to applicable design standards in National Register listed properties and historic districts, local historic districts, and locally designated historic landmarks.
  - d. **Separation Standards.** Telecommunications antennas and associated features located on existing buildings or structures are not subject to the separation requirements stated above.

- e. **Photo Simulation Requirements.** As part of the application process, applicants shall provide photo simulations showing the site of the existing structure with a photo realistic representation of the proposed telecommunications antenna and the existing structure or any proposed reconstruction of the structure as it would appear viewed from the closest residential district and from adjacent public right of way. The applicant shall also submit photographs of the same views as in the photo simulations showing the current appearance of the site without the proposed telecommunications antenna.
10. **Abandonment and Removal of Telecommunications Towers, Antenna Arrays, and Associated Equipment.** The following standards apply to all telecommunication features and their associated elements. These standards ensure inoperable features are removed, whereas habitable buildings are exempt from these requirements.
- a. **Abandonment.** Telecommunications towers, antenna arrays, and associated equipment which have not been used for a period of one (1) year shall be deemed abandoned and shall be removed from the site.
  - b. **Notice Required.** The owner of the telecommunications tower and the last service provider to use a telecommunications tower shall notify the Planning Director within thirty (30) days that use of a telecommunications tower has been discontinued.
  - c. **New Small Wireless Telecommunication Facilities.** Construction of new small wireless telecommunication facilities on new utility poles or wireless support structures and associated equipment or buildings shall comply with the following regulations:
    - I. **Height.** The maximum height of new utility poles or wireless support structures shall be fifty (50) feet above grade. Each new small wireless telecommunication facility shall not extend more than ten (10) feet above the utility pole or wireless support structure on which it is located. Notwithstanding the above, in no instance in an area zoned for detached residential dwellings where the existing utilities are installed underground shall a utility pole or wireless support structure exceed forty (40) feet above grade. No new small wireless telecommunication facility shall be located on any utility pole or wireless support structure that is less than fifteen (15) feet above grade.
    - II. **Location.** No portion of a new utility pole or wireless support structure associated with a small wireless telecommunication facility may be placed in the public right-of-way in a manner that does any of the following: obstructs pedestrians or vehicular or bicycle access, obstructs sight lines or visibility for traffic, traffic signage, or signals; public art or focal points, or interferes with access by persons with disabilities. An applicant may be required to place equipment in vaults located underground to avoid obstructions or interference. To the greatest extent possible, a new utility pole or wireless support structure associated with a small wireless telecommunication facility shall align with existing utility poles, light pole fixtures, or wireless support structures installed in the right-of-way.
    - III. **Separation.** New small wireless telecommunication facilities shall have the following minimum separation radius from another small wireless telecommunication facility: For the same wireless telecommunication provider: Each new small wireless telecommunication facility shall not be located such that the anticipated coverage ring of the small wireless telecommunication facility substantially overlaps the coverage ring of any other wireless telecommunication facility. Substantial overlap shall be defined as the more than ten (10) percent overlap between the anticipated coverage ring of a new small wireless telecommunication facility and the coverage ring of any other existing wireless telecommunication facility of the same provider; this definition shall also apply between the anticipated coverage rings of two or more new small wireless telecommunication facilities. Coverage Ring shall be defined as the approximate area of coverage that each small wireless telecommunication facility is able to provide; or in the case of new small wireless telecommunication facilities, the approximate area the small

wireless telecommunication facility is anticipated to provide. Coverage is defined as the area in which a person or entity is able to establish an electronic connection with the small wireless telecommunication facility.

- IV. **Review.** If an applicant desires that a new small wireless telecommunication facility be located within the prescribed distance and is necessary, such small wireless telecommunication facility shall be reviewed by the Planning Director and approved on a case-by-case basis.
- V. **Separation from different provider.** For different wireless telecommunication providers, each new small wireless telecommunication facility of different providers shall not be located within three hundred (300) feet of another small wireless telecommunication facility unless the applicant can show that locating the small wireless telecommunication facility within the prescribed distance is necessary. Such small wireless telecommunication facility shall be reviewed by the Planning Director and approved on a case-by-case basis.
- VI. **Objective Design Standards.** Small wireless telecommunication facilities and utility poles and wireless support structures shall be compatible with the surrounding area. Where existing street light fixtures are present, the utility pole or wireless support structure color shall match that of the street light fixture pole and shall be located in such a manner as to visually appear to be part of a common scheme of street light fixture pole placement.
  - i. Utility poles and wireless support structures shall be made of galvanized steel or comparable material except when otherwise required by applicable federal or state regulations. Wood utility poles and wireless support structures are prohibited.
  - ii. Small wireless telecommunication facilities shall be located, designed, and/or screened to blend in with the existing natural or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community.
  - iii. All small wireless telecommunication facilities shall be stealth antenna facilities. Stealth antenna and accessory equipment must be shrouded or otherwise concealed.
  - iv. To mitigate the visual impacts of unsightly or out-of-character small wireless telecommunication facilities, ground equipment shall be screened, to the extent possible as approved by the government body with jurisdiction of the right-of-way in which the small wireless telecommunication facility is to be located.

**c. Maintenance.**

- I. All small wireless telecommunication facilities and related equipment, including but not limited to fences, cabinets, poles, and landscaping, shall be maintained in good working condition over the life of the use. This shall include keeping the structures maintained to the visual standards established at the time of approval. The small wireless telecommunication facilities shall remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than thirty (30) calendar days from the date of notification by the City. In public rights-of-way, damaged or deteriorated components must be corrected within five (5) business days of notification.
- II. No lettering, symbols, images, trademarks, signs, or advertising shall be placed on or affixed to any part of a small wireless telecommunication facility, other than as required by Federal Communications Commission regulations regarding small wireless telecommunication facilities registration or other applicable law.

- d. **Filing Requirements.** All applications for a small wireless telecommunications facility shall be required to meet the filing requirements specified in Article 10: *Zoning Procedures*.
- D. **Wind Farm.** Where regulations and requirements of this Subsection conflict with those of the FAA or FCC, the Federal requirements shall take precedence.
- 1. **Setbacks.**
    - a. The distance from all lot lines or any building or power line to any tower support base shall be equal to the sum of the tower height and the diameter of the rotor. A reduction of this requirement may be granted as part of a referral to the City Council for approval if the City Council, after recommendation by the Planning Commission, finds that the reduction is consistent with public health, safety, and welfare.
    - b. The property line of an adjacent property may be exempt from the setback requirement if the owner is participating in the project.
  - 2. **Separation.**
    - a. The distance between the tower support bases of any two systems shall be the minimum of five (5) rotor lengths, determined by the size of the largest rotor. A reduction of this requirement may be granted as part of a referred approval if the City Council, after recommendation by the Planning Commission, finds that the reduction does not impede the operation of either system.
    - b. Any tower or rotor shall maintain a distance of at least one hundred (100) horizontal feet from any structure, power line, or antenna located on another property.
    - c. Any wind farm operation shall not interfere with radio, television, computer, or other electronic operations on adjacent properties.
  - 3. **Design.**
    - a. The exterior of any system shall not be reflective.
    - b. No illumination of any system shall be allowed unless required by the FAA.
    - c. All wires between any system and substations shall be underground.
    - d. The shadow flicker from may not exceed thirty (30) hours per year on a residential property.
    - e. A fence six (6) feet high with a locking gate shall be placed around any tower base, or the tower climbing apparatus shall begin no lower than twelve (12) feet above the ground.
    - f. Wind farms are exempt from the height restrictions of the base district
  - 4. Upon abandonment or discontinuation of use, the carrier shall physically remove any systems and associated facilities within ninety (90) days from the date of abandonment or discontinuation of use and restore the location to its natural condition, except that any landscaping and grading shall remain in the after-condition.
  - 5. In addition to the Conditional Use Permit criteria and those in this Section, the Planning Commission shall consider the following:
    - a. Whether the use is proposed in a potential city growth area as identified in the Comprehensive Plan.
    - b. That the wind farm shall not negatively affect or dominate the aesthetics of a registered historic district, property, or a designated state scenic by-way.

**11-514. Transportation Limited and Conditional Use Specific Standards****A. All Limited and Conditional Uses.**

1. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise.
2. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.

**B. Airport/Heliport.**

1. They must be located in an A-O District.
2. They are located greater than three hundred (300) feet from any R-1, R-2, R-3, R-4, MH, NC, DC, or GC District boundaries, as measured from the boundary lines nearest each other, unless separated from such district by a collector or arterial street.
3. Primary access to the site is from a collector or arterial street.

**C. Railroad Use.**

1. They are located greater than three hundred (300) feet from any residential, commercial district boundaries, as measured from the boundary lines nearest each other, unless separated from such district by a collector or arterial street or Landscape Transition Zone according to Section 11-603: *Landscape*.
2. Primary access to the site is from a collector or arterial street.

## 11-515. Accessory Permitted, Limited, and Conditional Use Specific Standards

### A. Accessory Buildings/Structures.

#### 1. All Districts.

- a. The size and number of allowed accessory buildings/structures shall be regulated by the building and impervious coverage standards of the parcel.
- b. No accessory building or structure shall be constructed unless a principal building is constructed or under construction simultaneously with the accessory building or structure.

#### 2. In Residential Districts.

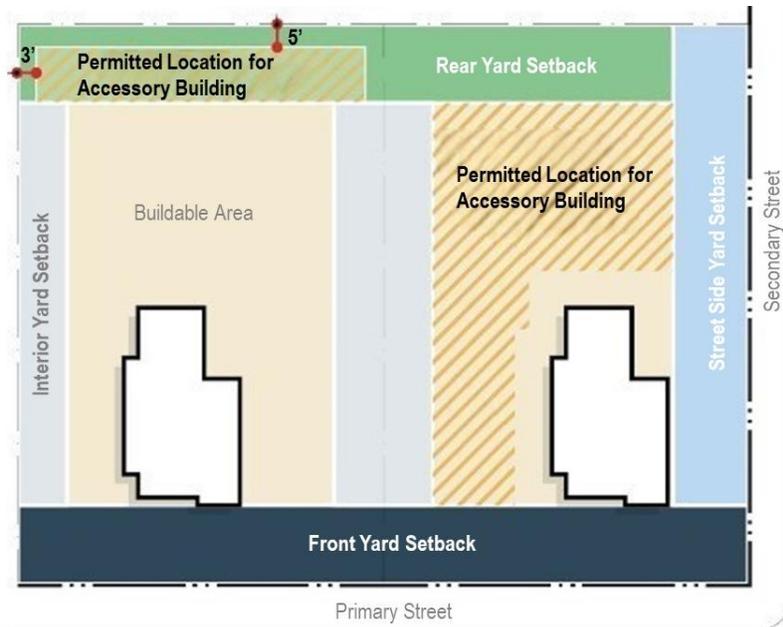
- a. An accessory building/structure shall have a maximum height of sixteen (16) feet or the height of the principal building, whichever is less.
- b. An accessory building/structure shall be located either:
  - I. Completely within the required rear yard and at least five (5) feet from rear and three (3) feet from interior lot lines.
  - II. Completely within the buildable area of the lot and to the interior side or rear of the principal building.
- c. Accessory buildings/structures shall not be located within any easement.
- d. Use of an accessory building/structure, for residential purposes, not otherwise constructed and approved for residential occupancy, is strictly prohibited.
- e. Detached garages facing a public or private street or alley shall be set back a minimum of twenty (20) feet from the property line.
- f. The combined building coverage of all accessory buildings in residential districts shall be no more than twelve (12) percent of any lot. Accessory buildings in the AG District and R-A District shall not exceed two (2) percent of any lot. Accessory buildings located in a floodplain shall not exceed eight hundred (800) square feet. Accessory buildings count towards the maximum total building coverage standards on a lot in Section 11-502: *Residential Use Specific Standards*.
- g. Compatibility. Accessory buildings and structures larger than eighty (80) square feet shall be designed to be compatible with the principal building in terms of:
  - I. Color, which shall be the same as or analogous to the principal building color;
  - II. Materials, which shall be the same as those used on the principal building, and in the case of siding or brick, shall be installed with the same patterns as on the principal building;
  - III. Roof pitch, which shall be the same as the principal building;
  - IV. Roof materials and color, which shall be the same as the principal building; and
  - V. Fenestration, if windows are provided, they shall be of a type and aspect ratio that is similar to those on the principal building.
  - VI. Exception: Accessory buildings and structures located on lots or tracts in R Rural Districts with a net lot area of five acres or more (net area calculation excludes public road right-of-way).

#### 3. In Mixed-Use and Nonresidential Districts.

- a. Accessory buildings/structures shall meet all yard setback requirements.
- b. Overhead doors/garages shall be set back a minimum distance to accommodate vehicle parking in front of the overhead door/garage on site.

- c. Accessory buildings/structures shall not be located within any easement.

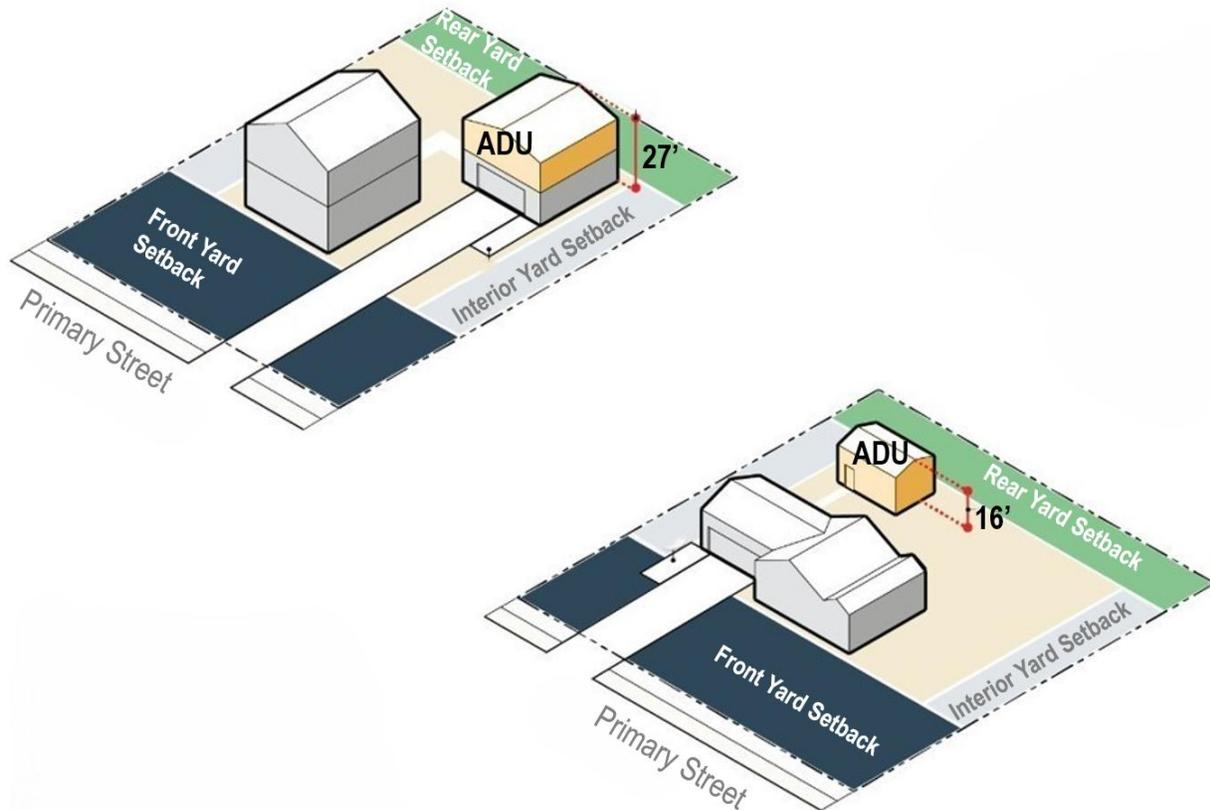
**Figure 11-515(A): Accessory Building Location Standards**



**B. Accessory Dwelling, Detached/Attached.**

1. One (1) detached, attached, or internal accessory dwelling unit shall be allowed per lot. The detached/attached accessory dwelling shall be located to the interior side or rear of the principal dwelling.
  - a. The maximum size of a detached accessory dwelling shall be eight hundred (800) square feet.
2. The maximum height of a standalone detached accessory dwelling shall be sixteen (16) feet or the height of the principal dwelling, whichever is less.
3. The maximum, combined height of a detached accessory dwelling located above a detached garage and the detached garage shall be twenty-seven (27) feet or the height of the principal dwelling, whichever is less.
4. The detached/attached accessory dwelling shall have at least one (1) dedicated parking space in addition to the parking requirements for the principal use that does not impede access to required parking for the principal dwelling. When allowed, on-street parking adjacent to the lot can satisfy the additional parking requirement.
5. The detached/attached accessory dwelling shall have similar architectural features including roof pitch, window type, size, and placement, and exterior building cladding materials as the principal dwelling.
6. All detached accessory dwellings must be placed on an appropriate and permanent foundation/footing.
  - a. The principal dwelling or detached/attached accessory dwelling shall be the primary residence of the owner of the property.
  - b. In the WP-O District, must be within the city limits and connected to City of Fremont water and sewer services.

Figure 11-515(B): Accessory Dwelling Unit Detached Standards



**C. Artisan Workshop, Accessory.**

1. The artisan workshop shall be wholly within the principal building and any accessory building.
2. The principal building shall be the primary residence of the property owner in the AG, R-L, R-1, R-2, R-3, and R-4 Districts.
3. No alterations shall be made to the principal building or accessory building that changes its residential character or appearance or otherwise gives evidence of the artisan workshop.
4. The sale of goods or materials created on site shall be by appointment only.
5. No persons, other than the residents of the dwelling unit, shall be employed on site in the R-L, R-1, R-2, R-3, and R-4 Districts.
  - a. Mechanical or electrical equipment supporting the artisan workshop shall be self-contained within the structure.
  - b. The outdoor display or storage of goods, materials, merchandise, or equipment related to the artisan workshop shall be prohibited in the R-L, R-1, R-2, R-3, and R-4 Districts.
6. The artisan workshop shall not require the delivery or shipment of goods, materials, merchandise, or equipment beyond what is typical for a residential use in the R-L, R-1, R-2, R-3, and R-4 Districts.
7. The artisan workshop shall not create or cause any perceptible noise, odor, smoke, electrical interference, or vibrations that constitute a public or private nuisance to neighboring properties.

- a. The artisan workshop shall not discharge any material which is radioactive, poisonous, or detrimental to either wastewater or storm water systems.

**D. Retail/Restaurant, Accessory.**

- 1. The total area devoted to retail and/or restaurant activity shall not exceed twenty-five (25) percent of the total area of the building in which the accessory retail/restaurant activity shall be located.
- 2. Restroom facilities shall be directly accessible from the accessory retail/restaurant sales area.
- 3. Accessory retail/restaurant sales areas shall be physically separated from other activity areas by a wall.

**E. Child Care Center, Accessory.**

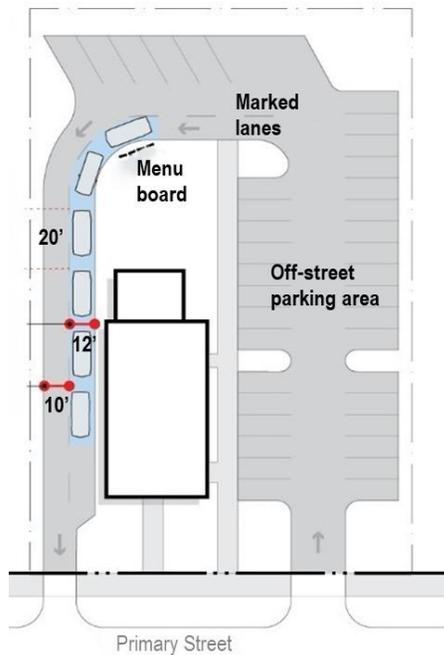
- 1. All standards for Child Care Centers as a principal use shall apply.

**F. Drive-Through, Accessory.**

- 1. Any speaker or intercom associated with a drive-through shall not be audible beyond the boundaries of the property.
- 2. Stacking spaces and lanes for drive-through stations shall not impede on- and off-street traffic movement, shall not cross off-street parking areas or drive aisles, and shall not impede pedestrian access to a public building entrance.
- 3. Drive-through lanes shall be separated from off-street parking areas. Individual lanes shall be striped, marked, or otherwise delineated.
- 4. Drive-through facilities shall be provided with a bypass lane with a minimum width of ten (10) feet unless an alternative means of exit is approved.
- 5. Stacking lanes shall have a minimum depth of twenty (20) feet per stacking space and the following minimum lane widths:
  - a. One (1) lane: twelve (12) feet.
  - b. Two (2) or more lanes: ten (10) feet per lane.
- 6. Drive-through facilities shall be required to provide a minimum number of stacking spaces as detailed in Table 11-515(G): *Drive-Through Stacking Requirements*.

Table 11-515(G): Drive-Through Stacking Requirements		
Use	Minimum Stack	Measure From
<i>Automated Teller Machine</i>	3 per machine	teller machine
<i>Bank Teller Lane</i>	2 per lane	teller or window
<i>Restaurant</i>	6 per order box	order box [1]
<i>Drive-up retail or service windows, and passenger drop offs</i>	4 per lane	machine or window
<i>Other</i>	as determined necessary through the Conditional Use Permit process	
<b>Notes:</b>		
[1] Four (4) of the required stacking spaces are to be located between the order-box and pick-up window, including the stacking space at the order box.		

Figure 11-515(G): Drive-Through Standards



- G. **Home Occupation.** Home occupations may be permitted as a secondary use in dwelling units subject to the following conditions:
1. The home occupation shall be conducted wholly within the principal building and any accessory building.
  2. The principal building shall be the primary residence of the property owner.
  3. The maximum allowable area that may be used in conducting such home occupation shall be equal to thirty (30) percent of the floor area of the dwelling unit.
  4. Employees. A home occupation may not employ individuals other than the residents of the dwelling unit; provided, however, that the Building Official may approve one (1) nonresident employee upon application by the owner showing:
    - a. Certification by the appropriate state or federal agency that the owner is physically disabled.
    - b. Certification of an attending physician that the owner cannot perform the tasks required by the home occupation without assistance.
  5. No alterations shall be made to the principal building that changes its residential character or appearance or otherwise gives evidence of the home occupation operation.
  6. Display, purchase or sale of commodities. A home occupation may not include on-premises display, purchase or sale of commodities, unless for products related to a service use. Welding, vehicle body repair, mechanical repair, or rebuilding or dismantling of vehicles are not permitted as a home occupation.

7. Any activities carried on outdoors in connection with the home occupation is screened and there is no outdoor storage of any equipment, machinery, parts, or other articles of any nature used in connection with such home occupation, except that day care centers may have permanent play equipment such as slides and swing sets located in the required side or rear yards.
8. Service traffic. Deliveries or service by commercial vehicles or trucks is prohibited beyond what is typical for a residential use.
9. Mechanical or electrical equipment supporting the home occupation shall be self-contained within the structure and normally used for office, domestic, or household purposes.
10. The home occupation shall be conducted in a manner that does not create parking or traffic congestion or otherwise unreasonably interfere with the peace and enjoyment of surrounding homes as places of residence.
11. The home occupation shall not create or cause any perceptible noise, odor, smoke, bright lights, electrical interference, vibrations, or other external effects that constitute a public or private nuisance to neighboring properties.
12. The home occupation shall not discharge any material which is radioactive, poisonous, or detrimental to either wastewater or storm water systems.
13. The home occupation shall operate in accordance with all applicable laws. If a state permit is required, such permit shall be obtained prior to beginning operation.
14. The following businesses shall not be permitted as home occupations:
  - a. Any use listed in Section 11-503: *Institutional Use Specific Standards* and Section 11-505: *Recreation and Amusement Use Specific Standards*.
  - b. Adult establishments.
  - c. Alcoholic beverage sales.
  - d. Animal boarding, grooming, or veterinary services of any kind.
  - e. ATM / vending kiosk.
  - f. Auto sales, rental, repair, or service of any kind.
  - g. Gaming services.
  - h. Lodging services of any kind.
  - i. AFO / CAFO.
  - j. Extractive industry.
  - k. Heavy industry.
  - l. Light industry.
  - m. Landfill.
  - n. Self-service storage or storage yard of any kind.
  - o. Any other use not specifically listed in Section 11-501: *Permitted, Limited, Conditional, and Temporary Uses*.

**H. Outdoor Activity/Operation/Storage, Accessory.**

1. Outdoor activity/operation shall be conducted between the hours of 7:00 a.m. and 9:00 p.m.
2. Outdoor activity/operation/storage shall be located to the rear or interior side of the principal building on the lot.
3. Outdoor activity/operation/storage shall be prohibited in front or street side yards.

4. Outdoor activity/operation/storage shall be setback a minimum of fifty (50) feet from all property lines when adjacent properties in the R-L, R-1, R-2, R-3, R-4, MH, NC, or DC Districts.
5. The following minimum screening requirements shall apply to permanent outdoor activity/operation/storage visible from the right-of-way of an existing or proposed arterial or collector street or a property zoned in the R-L, R-1, R-2, R-3, R-4, MH, DC, or NC Districts.
  - a. A solid wall or fence constructed from materials, not including metal, identical to those used on the exterior of the principal building, unless otherwise approved by the Planning Commission, and not less than six (6) feet and not more than eight (8) feet in height.
  - b. A landscape strip, not less than five (5) feet wide shall be located in front of the wall. The landscape strip shall be improved with a Landscape Transition Zone per Section 11-603: *Landscape*.

**I. Outdoor Dining.**

1. The outdoor dining area shall be located on an approved hard paved surface.
2. Outdoor dining areas may use a maximum of twenty (20) percent of the parking spaces required for the operation of the principal use or two thousand (2,000) square feet, whichever is less.
3. Outdoor dining areas shall not block a pedestrian walkway or public sidewalk in a manner which reduces the width of that walkway or sidewalk to less than five (5) feet.
4. A fence, landscape hedge, or wall with a height of forty-two (42) inches shall be used to segregate the outdoor dining area from public areas.
5. Use of outdoor dining areas shall be limited to the posted operational hours of the associated eating and drinking use.

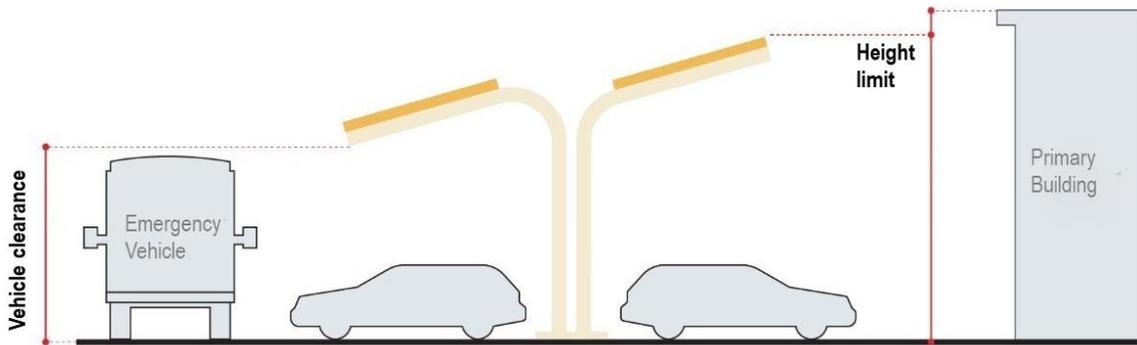
**J. Outdoor Display/Sale of Merchandise.**

1. Only those goods and materials associated with the existing on-site use may be displayed or sold.
2. Permanent outdoor display or sales areas shall not be located within any required yard or parking area.
3. Permanent outdoor display or sales areas shall be surfaced with an approved hard surface material. Partially paved or unpaved outdoor display or sales areas shall be prohibited.
4. Permanent outdoor display or sales areas shall not exceed ten (10) percent of the gross floor area of the primary building on the property unless approved as a Conditional Use.

**K. Solar Energy Collection System, Canopy.**

1. The height of canopy solar energy collection systems shall not exceed the height of the primary building that the parking area serves.
2. The minimum height of solar energy collection systems shall allow clearance for emergency and service vehicles.
3. Shall follow the Secretary of the Interior Standards for Historic Preservation if located In a National, State, or Locally designated historic district or HP-O District.

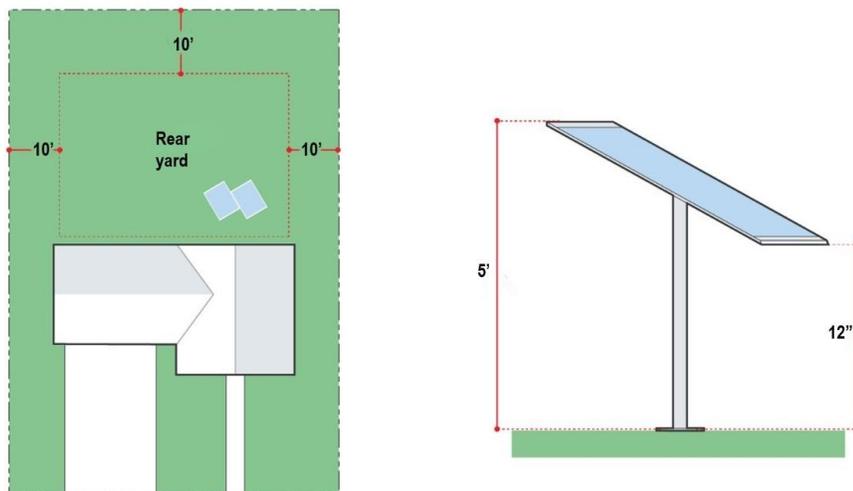
**Figure 11-515(L): Solar Energy Collection System, Canopy Standards**



**L. Solar Energy Collection System, Ground-Mounted.**

1. Ground mounted solar energy collection systems shall be permitted in the rear yard only.
2. The maximum height of ground mounted solar energy collection systems shall be five (5) feet, measured from the grade at the base of the pole to the highest edge of the system.
3. The minimum clearance between the lowest point of the system and the surface on which the system is mounted is twelve (12) inches.
4. All parts of the freestanding system shall be set back ten (10) feet from the side and rear lot lines and shall not be located in an easement.
5. Shall follow the Secretary of the Interior Standards for Historic Preservation if located In a National, State, or Locally designated historic district or HP-O District.

**Figure 11-515(M): Solar Energy Collection System, Ground-Mounted Standards**

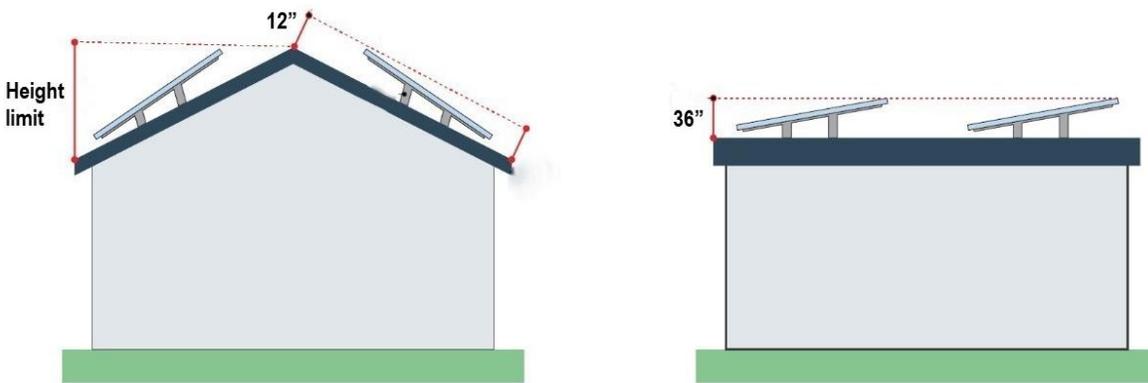


**M. Solar Energy Collection System, Roof Mounted.**

1. Roof mounted solar energy collection systems may be located on any roof face of principal or accessory buildings. Systems should be flush mounted when possible.
2. Systems on residential structures shall not extend beyond twelve (12) inches parallel to the roof surface of a pitched roof or flat roof.
3. Systems on nonresidential structures shall not extend beyond thirty-six (36) inches parallel to the roof surface of a pitched roof or flat roof.

4. Systems on all structures shall not extend above the highest peak of a pitched roof. Height is measured from the roof surface on which the system is mounted to the highest edge of the system.
5. Shall follow the Secretary of the Interior Standards for Historic Preservation if located in a National, State, or Locally designated historic district or HP-O District.

**Figure 11-515(N): Solar Energy Collection System, Roof-Mounted Standards**



**11-516. Temporary Use Specific Standards**

**A. Standards for All Temporary Uses**

1. Each site shall be left free of debris, litter, or other evidence of the use upon its completion or removal, with trash containers and recycling containers placed near the area for exhibits, assemblies, and shows.
2. Temporary buildings shall comply with all site development regulations of the respective zoning district.
3. All temporary uses shall comply with access and circulation requirements of the UDC.
4. All temporary uses shall comply with signage and lighting requirements of the UDC.
5. The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.
6. The Planning Director may establish other conditions that they deem necessary to ensure compatibility with surrounding land uses. Examples include but are not limited to:
  - a. Hours of operation.
  - b. Proof of general liability insurance for the event.
  - c. Provision of public safety enhancements.

**B. Carnival / Fair.**

1. No camping shall be permitted at carnival/fair sites.

**C. Construction Related.**

1. Must be located on the construction site itself.
2. For construction concrete or asphalt batch plants, no plant may be located within a floodway or within six hundred (600) feet of a developed residential, park, or educational use.

**D. Farmers Market. RESERVED**

**E. Garage / Yard Sales.**

1. The frequency at any one location shall not exceed one (1) during a continuous, two (2) month period or four (4) sales during any twelve (12) month period.

**F. Seasonal Sales.**

1. Seasonal sales shall be permitted for a period not to exceed ninety (90) days per calendar year, unless otherwise approved. However, seasonal sales specifically for the sale of produce and poultry grown and raised on or in the area of the premises, but not including live animals, are permitted for the entire harvest season of the produce being offered for sale.
2. Seasonal sales areas may use a maximum of twenty (20) percent of the parking spaces required for the operation of the principal use or two thousand (2,000) square feet, whichever is less.
3. Seasonal sales areas shall not block pedestrian walkways in a manner which reduces the width of that walkway to less than five (5) feet.

## Article 6. General Development Standards

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### 11-601. Off-Street Parking and Loading

- A. **Purpose.** The purpose of this Article is to ensure that:
1. Adequate but not excessive off-street motor vehicle and bicycle parking is provided for uses in the City,
  2. Parking and accessible routes are provided for disabled individuals per the Americans with Disabilities Act ("ADA"), as may be amended from time to time,
  3. Alternative demand models including special studies and shared parking programs are considered,
  4. The design and use of parking and loading areas are regulated for consistency,
  5. Adequate loading areas are provided that do not interfere with the function of other vehicular, bicycle, or pedestrian use areas, and
  6. Access to sites is managed to maintain the desired function and safety of the adjacent street(s).
- B. **Minimum Required Parking.**
1. **Calculation of Required Parking Spaces.** The standards of this Subsection set out the means for calculating the number of parking spaces required for each land use.
    - a. **Calculations.** The number of required parking spaces is calculated according to the formulas set out in this Section. Parking requirements may be adjusted per the standards established in Section 11-601(D): *Shared Parking*.
    - b. **Rounding.** If the final calculated number of required parking spaces includes a fractional space, the number of required parking spaces shall be rounded up to the nearest whole number, regardless of the fraction.
    - c. **Variables for Calculating the Required Parking.** The variables used for parking calculations are measured as follows:
      - i. **Adjusted Gross Floor Area (AGFA). Parking requirements for non-residential uses shall be calculated by adding the gross floor area of all structures on the premises**

**and dividing by two.** The gross floor area shall be the sum of the horizontal floor area of all floors of a building as measured from the exterior faces of the exterior walls.

- II. **Per Dwelling Unit (DU).** The phrase "per DU" means that the number of parking spaces is calculated based on the number of dwelling units.
- III. **Others.** Other variables are measured according to their common meanings.

**2. Required Parking.**

- a. **Uses that Involve Fleets or Vehicle Inventory.** Uses that involve fleets of vehicles (e.g., post offices, police stations, fire stations, etc.) and uses that involve vehicle inventories (e.g., auto sales and service establishments) shall provide adequate on-site parking for the fleet or inventory. Such parking shall not count towards the requirements of Table 11-601(B)(4): *Minimum Required Parking by Use*.
- b. **Speculative Industrial Buildings.** Speculative industrial buildings shall provide parking per the minimum requirement for Office uses for a minimum of five (5) percent of the gross floor area of the building. Additional land shall be set aside to accommodate the maximum amount of parking that could be required for the highest parking generator.
- c. **DC District Exemption.** Nonresidential uses and residential uses with four (4) units or less in the DC District shall be exempt from minimum parking requirements. Parking requirements for residential development with more than four (4) units shall be addressed in a development agreement. If off-street parking is provided, it shall meet all design requirements of the UDC.
- d. **Uses Not Listed.** The Planning Director shall determine the parking requirements for uses that are not listed based on the uses that are most similar to the proposed uses or based on parking studies of similar uses that are provided by the applicant and certified by a qualified transportation planner or professional engineer.

**3. Required Bicycle Parking.**

- a. **Applicability.** Bicycle parking shall be required pursuant to this Subsection.

**4. Minimum Required Parking by Use Type.** Table 11-601(B)(4): *Minimum Required Parking by Use*, establishes the minimum number of required parking spaces per use type.

Table 11-601(B)(4): Minimum Required Parking by Use		
Use	Required Minimum Parking	Required Minimum Bicycle Parking
<i>Residential</i>		
Single-Family Detached	Two (2) per DU	None
Manufactured Home		
Duplex		
Rowhome	One (1) stall per bedroom plus one (1) guest stall for every five (5) units. A reduction in parking may be considered if adequate land is set aside to accommodate the full amount of required parking.	One (1) per every fifteen (15) units Minimum of four (4) spaces
Multifamily, above ground floor only		
Multifamily Building, 4 units or fewer		
Multifamily Building, 5 units or more		
Multifamily Complex		

<i>Institutional</i>		
Educational Facility	As determined by parking demand study [1]	At least two (2) spaces, plus one (1) per every fifteen (15) vehicle parking spaces
Institutional Residential		
Governmental Uses		
Health Care Facility	One-half (0.5) per bed for in-patient facilities; One-half (0.5) per examining or operating room for out-patient facilities	None
Health Care Service		
Health Clinic		
Home Health Agency Office		
Cemetery	None	None
<i>Place of Assembly</i>		
Indoor Place of Assembly	One (1) per one hundred (100) sq ft of AGFA unless otherwise determined by a special study.	None
Outdoor Place of Assembly		
Noncommercial Place of Assembly, legally established prior to the adoption of this UDC		
<i>Recreation and Amusement</i>		
Campground	One (1) per camp site	None
Personal Camp Site		
Driving Range	As determined by parking demand study [1]	None
Golf Course	As determined by parking demand study [1]	None
<i>Lodging</i>		
Lodging House	One (1) per lodging unit	None
Hotel		
Motel		
Short Term Rental	One (1) per bedroom	
<i>Retail</i>		
General Retail	One (1) per four hundred (400) sq ft AGFA	None
Multitenant Shopping Center	One (1) per four hundred (400) sq ft AGFA	As required for individual uses
Pawn Shop	One (1) per four hundred (400) sq ft AGFA	At least two (2) spaces, plus one (1) per every thirty (30) vehicle parking spaces
Wholesale Establishment	One (1) per six hundred (600) sq ft AGFA	None

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<i>Service</i>		
Adult Day Service	One (1) per two hundred (200) sq ft AGFA	None
Adult Establishment		

<b>Table 11-601(B)(4): Minimum Required Parking by Use</b>		
<b>Use</b>	<b>Required Minimum Parking</b>	<b>Required Minimum Bicycle Parking</b>
Child Care Center	One (1) per four hundred (400) sq ft AGFA	For General Service and Office uses: At least two (2) spaces, plus one (1) per every thirty (30) vehicle parking spaces
Communication Services	One (1) per four hundred (400) sq ft AGFA	For General Service and Office uses: At least two (2) spaces, plus one (1) per every thirty (30) vehicle parking spaces
Gaming Service		
General Service		
Financial Institution		
Funerary Service		
Large Animal Veterinary Service		
Office, above ground floor only		
Office		
Office Complex/Business Park		
Small Animal Veterinary Service		
Large Animal Boarding Facility	One (1) per three (3) animal enclosure areas	None
Pet Daycare		
Small Animal Boarding Facility/Kennel		
<b><i>Eating and Drinking</i></b>		
Bar/Tavern	One (1) per two hundred (200) sq ft AGFA	At least two (2) spaces, plus one (1) per every thirty (30) vehicle parking spaces
Brewery/Winery/Distillery Tasting Room		
Micro Brewery/Winery/Distillery		
Restaurant		
<b><i>Vehicle Related</i></b>		
Auto Sales/Rental and Service	One (1) per six hundred (600) sq ft AGFA	None
Carwash	One (1) per carwash stall	None
Major Automotive Repair	Three (3) per service bay	None
Minor Automotive Repair		
Truck Stop	One (1) per three hundred (300) sq ft AGFA	None
Vehicle Fuel Sales		

<i>Agricultural</i>		
Community Garden	No minimum requirement	None
Crop Production		
Animal Husbandry		
Animal Feeding Operation/ Concentrated Animal Feeding Operation		
Indoor Agriculture	One (1) per six hundred (600) sq ft AGFA	None
Nursery Retail		
Nursery Wholesale		
<i>Industrial</i>		
Artisan Manufacturing/Workshop	One (1) per six hundred (600) sq ft AGFA	None
Brewery/Winery/Distillery	One (1) per five thousand (5,000) sq ft AGFA	None
Composting/ Recycling Facility		
Distribution Facility		

<b>Table 11-601(B)(4): Minimum Required Parking by Use</b>		
<b>Use</b>	<b>Required Minimum Parking</b>	<b>Required Minimum Bicycle Parking</b>
Equipment Rental, Sales, and Service	One (1) per three hundred (300) sq ft AGFA of office space	None
Extractive Industry		
Heavy Industry		
Hobby Garage		
Home Improvement Center/ Lumberyard		
Light Industry		
Self-Service Storage Facility	One (1) per three hundred (300) sq ft AGFA of office space	None
Solid Waste Facility/ Solid Waste Transfer Station	One (1) per five thousand (5,000) sq ft AGFA	None
Storage Yard		
Warehouse		
Wrecking Yard/Salvage Yard		
<b>Utility</b>		
Solar Farm	None	None
Telecommunications Tower		
Wind Farm		
<b>Transportation</b>		
Airport/ Heliport	As determined by parking demand study [1]	None
Railroad Use		
<b>Notes</b>		
[1] A parking demand study shall be conducted by a professional consultant retained by the developer. All costs associated with the parking demand study shall be the responsibility of the applicant.		

**C. Reserved Parking Spaces.**

**1. Curb-Side Pick-up.**

a. A maximum of ten (10) percent of required parking spaces may be reserved for curb-side pick-up patrons.

**2. Electric Vehicle Charging Stations.** Any parking structure, parking area serving a multifamily use, or any parking area with fifty (50) or more parking spaces, shall install the infrastructure required to accommodate a minimum of one (1) electric vehicle charging station per every fifty (50) required parking spaces.

**D. Shared Parking.**

**1. Generally.** The City recognizes that uses may have different hours of operation and peak parking

demand hours. For this reason, the City desires to encourage the sharing of parking for its potential to reduce paved areas and/or to enhance the efficiency of land use. Where a mix of uses creates synergy with respect to the use of parking spaces due to differences in when the spaces are most likely to be used, the City may reduce the required number of spaces according to the provisions of this Subsection.

2. **Shared Parking Table.** Shared parking allows a reduction in the total number of required parking spaces when a lot or tract is occupied by two (2) or more uses which typically do not experience peak use of parking areas at the same time. When any land or building is used for two (2) or more uses that are listed below, the minimum total number of required parking spaces may be determined by the following procedures:
  - a. Multiply the minimum required parking for each individual use by the appropriate percentage listed in Table 11-601(D)(2): *Shared Parking*, for each designated time period.
  - b. Calculate a sum for all uses for the five (5) periods (columns). The minimum parking requirement is the highest of these sums. Set out in Table 11-601(D)(2): *Shared Parking*, is an example of how to calculate shared parking credits.

Table 11-601(D)(2): Shared Parking					
Use	Weekday			Weekend	
	Night	Day	Evening	Day	Evening
	(12 AM to 6 AM)	(6 AM to 6 PM)	(6 PM to 12 AM)	(6 AM to 6 PM)	(6 PM to 12 AM)
Residential	100%	60%	90%	80%	90%
Office	5%	100%	10%	10%	5%
Retail	5%	70%	90%	100%	70%
Lodging Services	80%	80%	100%	50%	100%
Restaurant	10%	50%	100%	50%	100%
Amusement/ Recreation	10%	40%	100%	80%	100%
All Others	100%	100%	100%	100%	100%

3. **Shared Parking Among Lots Under Different Ownership.** When a shared parking reduction is to be applied to uses on several lots under different ownership, the following shall be provided:
  - a. Parking lots are compliant with all cross-access requirements established in Section 11-601(G): *Off-Street Parking Area Design*,
  - b. Parking lots are compliant with all pedestrian circulation system requirements established in Section 11-601(G): *Off-Street Parking Area Design*, and
  - c. Recorded easements, accepted by the City Attorney, that provide, at a minimum, for:
    - I. Required cross access per Section 11-601(G): *Off-Street Parking Area Design*,
    - II. Allocation of maintenance responsibilities,
    - III. Required pedestrian circulation system per Section 11-601(G): *Off-Street Parking Area Design*, and
    - IV. A right of enforcement by the City.

- E. **Parking Land Bank.** Except for single-family uses, required parking spaces may be land banked during the site plan review process if identified on an approved site plan and the following standards are met.
1. Sufficient evidence, as determined by the Planning Director, is provided by the applicant to support the reduction in required parking.
  2. The area proposed for land banking of parking spaces is an area suitable for conversion to parking at any time as may be required by the City or at such time when the need arises.
  3. The land banked parking area must be landscaped.
  4. The land banked parking area cannot be used for any other use, such as storage, and cannot be used to fulfill other landscape requirements of this UDC.
- F. **Bicycle Parking.**
1. **Bicycle Parking Design Standards.**
    - a. Bicycle parking shall be designed so that racks are securely anchored to a hard surface to prevent easy removal.
    - b. Allowed bicycle parking systems include:
      - I. Inverted U.
      - II. Inverted U series.
      - III. Post and ring.
      - IV. Wheel well secured.
      - V. Modified coat hanger.
      - VI. Undulating.
      - VII. Other as approved by the Planning Director.
  2. **Bicycle Parking Location Standards.**
    - a. The location of bicycle parking facilities shall be at least as convenient to the main entrance of the primary use as the most convenient vehicular parking not reserved for disabled users, as determined by the Planning Director.
    - b. An aisle at least five (5) feet wide shall be provided behind all required bicycle parking to allow room for bicycle maneuvering and to prevent hazards or obstructions to the normal flow of pedestrians into a use.
- G. **Off-Street Parking Area Design.**
1. **Parking Space and Aisle Dimensions.**
    - a. **Standard Parking Space and Aisle Dimensions.** Standard parking spaces for multifamily, mixed-use, and nonresidential development, including interlocking standard parking spaces, shall comply with the minimum dimensional and layout requirements specified in Table 11-601(G)(1)(a): *Standard Parking Stall and Aisle Dimensional Requirements*.

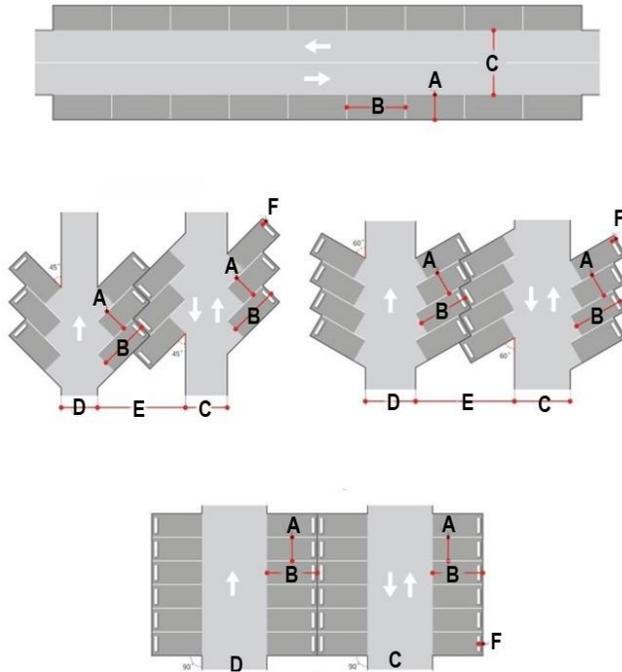
Table 11-601(G)(1)(a): Standard Parking Stall and Aisle Dimensional Requirements						
Parking Angle (degrees)	Figure Reference					
	A	B	C	D	E	F
	Space Width	Space Depth	Aisle Width (2-Way)	Aisle Width (1-Way)	Depth of Interlocking Spaces	Overhang
0 (parallel)	8'	22'	18'	12'	N/A	N/A
45	9'	17'	20'	18'	28.25'	1.5'
60	9'	20'	20'	18'	32'	2'
90	9'	18'	24'	24'	36'	2'

**b. Compact Parking Space and Aisle Dimensions.**

- I. Compact parking spaces and aisles for multifamily, mixed-use, and nonresidential development shall comply with the minimum dimensional and layout requirements specified in Table 11-601(G)(1)(b): *Compact Parking Space Dimensional Requirements*.
- II. A maximum of fifteen (15) percent of required parking spaces may have compact dimensions.
- III. Compact parking spaces shall be labeled for such purposes.

Table 11-601(G)(1)(b): Compact Parking Space Dimensional Requirements						
Parking Angle (degrees)	Figure Reference					
	A	B	C	D	E	F
	Space Width	Space Depth	Aisle Width (2-Way)	Aisle Width (1-Way)	Depth of Interlocking Spaces	Overhang
0 (parallel)	7.5'	18'	18'	12'	N/A	N/A
45	7.5'	15.5'	18'	12'	28.25'	1.5'
60	7.5'	16.25'	18'	16'	32'	1.5'
90	7.5'	15.5'	24'	24'	36'	N/A

Figure 11-601(G)(1): Off-Street Parking Space and Aisle Dimensional Standards

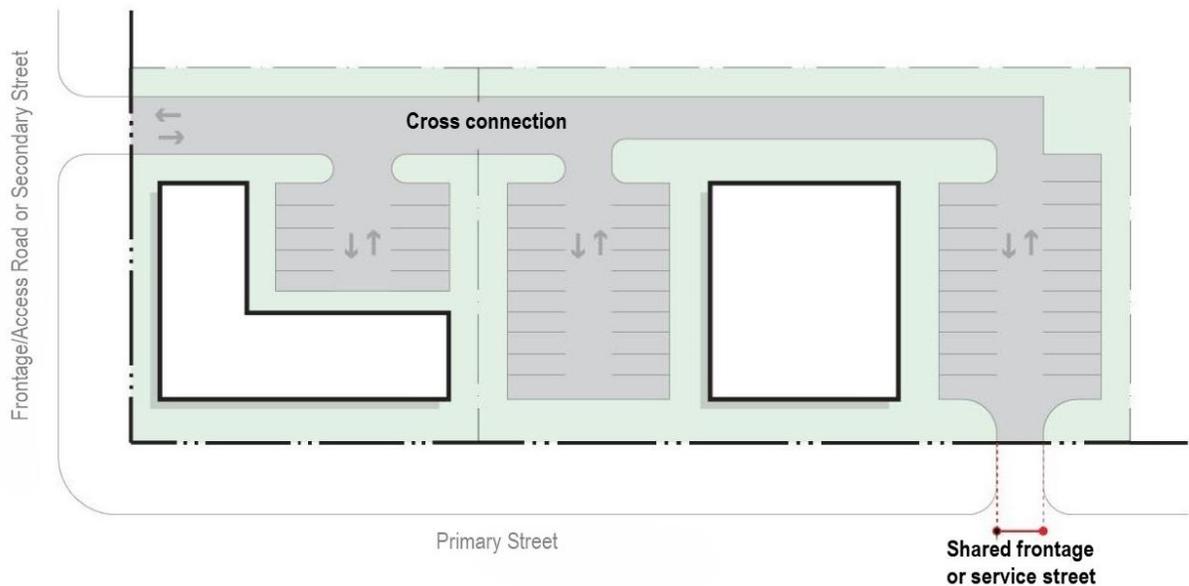


- c. **Single-Family Detached, Duplex, and Rowhome Parking Space Dimensions.** An area on a lot with a single-family detached, duplex, or rowhome use is considered a parking space if:
  - I. The area is at least nine (9) feet wide and twenty (20) feet deep,
  - II. The area does not encroach upon a public sidewalk,
  - III. The area has an all-weather surface, and
  - IV. The area is accessible from the street.
2. **Parking Space Markings.**
  - a. All parking spaces that are located in parking facilities serving multifamily, mixed-use, or nonresidential uses shall be clearly marked. All handicap accessible spaces shall be designed with an upright sign exhibiting the universal symbol for accessibility by the handicapped. All such spaces shall be designed in compliance with the standards of the Americans with Disabilities Act.
  - b. Parking spaces for single-family detached, duplex, or rowhome uses that are located in private garages, carports, or individual driveways do not have to be marked.
3. **Vertical Clearance.**
  - a. A vertical clearance of not less than the greater of eight (8) feet or as required by the adopted International Building Code (IBC) shall be provided over all parking spaces.
  - b. Additional clearance shall be provided for larger vans, sports utility vehicles, and light trucks that require such clearance if parking demand from such vehicles is anticipated, as determined by the Building Official.
  - c. All parking garage entrances shall include an overhead bar to alert oversized vehicles regarding clearance.
4. **Cross Access.** To facilitate vehicular access between adjoining developments, encourage shared

vehicle parking, and minimize access points along streets, new multifamily, mixed-use, and nonresidential development or redevelopment shall comply with the following standards:

- a. Internal vehicular circulation systems shall be designed to allow for vehicular cross-access between the development's off-street parking areas and off-street parking areas in an adjoining multifamily, nonresidential, or mixed-use development, or to the boundary of adjoining vacant land zoned to allow multifamily, nonresidential, or mixed-use development.
- b. Required vehicular cross access between the adjoining lots shall be provided through the use of a frontage or service street (if the lots front on a major thoroughfare right-of-way), a single two-way maneuvering lane, or two (2) one-way maneuvering lanes that are sufficiently wide to accommodate traffic by automobiles, service vehicles, loading vehicles, and emergency vehicles.
- c. The Planning Director may waive or modify the requirement for vehicular cross access on determining that such cross access is impractical or undesirable because it would require crossing a significant physical barrier or environmentally sensitive area or would create unsafe conditions.
- d. Easements allowing cross access to and from properties served by a vehicular cross-access, along with agreements defining maintenance responsibilities of property owners, shall be recorded with the Register of Deeds for the county in which the properties are located before issuance of a Building Permit for the development.

**Figure 11-601(G)(4): Cross Access Standards**



**5. Pedestrian Circulation System Standards.**

- a. Off-street parking areas shall include on-site pedestrian circulation systems to ensure the safety of pedestrians, bicyclists, and motorists.
- b. The on-site pedestrian circulation system shall comply with all ADA standards.
- c. The on-site pedestrian circulation system shall be marked and must connect all buildings on the site to one another and provide connections to the required vehicle and bicycle parking spaces.
- d. The on-site pedestrian circulation system must connect building entrances to adjacent public

rights-of-way along direct routes that do not require significant out-of-direction travel.

- e. The on-site pedestrian circulation system shall provide at least one (1) connection to adjacent properties along a shared street frontage. Connections must provide access to existing walkways on adjacent properties, or to the likely future location of walkways on those properties. The Planning Director may waive this requirement upon determining that no walkway exists, a future walkway is unlikely to exist, or such connection would create a safety hazard.
- f. No vehicle overhang from a parking space shall reduce a pedestrian path to less than four (4) feet wide.

#### H. Off-Street Loading.

1. **Generally.** Loading spaces shall be provided and designed as laid out in this Subsection. Off-street loading areas are subject to the landscaping and buffering requirements for parking facilities set forth in Section 11-603: *Landscape*.
2. **Dimensions of Loading Spaces.**
  - a. **Industrial Uses.** Each loading space for an industrial use must be at least twelve (12) feet wide and thirty-five (35) feet long.
  - b. **Other Uses.** All other loading spaces must be at least twelve (12) feet wide and eighteen (18) feet long.
  - c. Larger loading spaces may be required by the Planning Director where the size of the design vehicle exceeds these specifications.
3. **Vertical Clearance.** Vertical clearance for loading spaces shall be at least fourteen (14) feet in height.
4. **Loading Space Identification.** All loading spaces must be identified as loading spaces through the use of signs, pavement markings, or by other means approved by the Planning Director.
5. **Number of Loading Spaces.** In any district with every building or part thereof hereafter erected, altered, or modified, having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by uses requiring the receipt of material or merchandise or distribution of the same, by vehicles, there shall be provided and maintained on the same lot with such building, at least one (1) off-street loading space. Additional loading spaces may be provided at the discretion of the developer if all other standards of this UDC are met.
6. **Use of Right-of-Way.** Where off-street loading areas are provided, at no time shall any part of a truck or van be allowed to extend into a public right-of-way while being loaded or unloaded.
7. **Maneuvering Space.** Off-street truck maneuvering space shall be provided on-site and off-street in a manner that does not interfere with internal site circulation, ingress or egress to the site, access to or use of required off-street parking areas and pedestrian circulation areas, or other areas as determined by the Planning Director.
8. **Location.**
  - a. Loading areas shall be located on the same lot as the use served by the loading area.
  - b. Loading areas shall be located to the rear of the principal building with the exception of:
    - I. Loading areas in the LI and GI Districts which may be located to the front or side of the principal building if it is demonstrated that:
      - II. The frontage is not an arterial street or highway according to the City's Long Range Transportation Plan, and
      - III. All property directly facing the subject property on the other side of the street are also zoned an LI or GI District.
      - IV. Loading areas meeting all screening requirements per Section 11-604: *Screening*, which may be located to the front or side of the principal building.

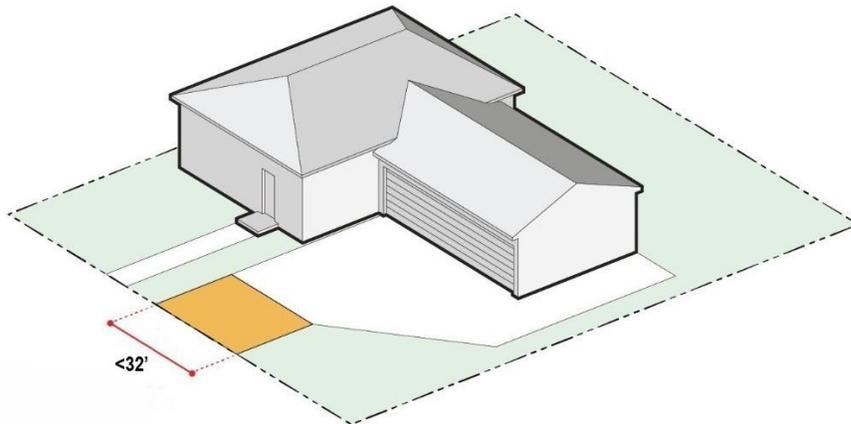
## I. Surfacing and Maintenance.

1. **Surfacing.** Off-street parking facilities shall not be located in required buffer yard street side yard, or landscape area per Section 11-603: *Landscape*, shall be designed and built to prevent the free flow of water onto adjacent properties, and shall be surfaced as follows:
  - a. In general, off-street parking facilities shall be graded and surfaced with an all-weather material, approved by the Planning Director, such as but not limited to concrete, asphalt or asphaltic concrete, permeable paving, driveway pavers, or pavers.
  - b. For properties located in the AG and GI Districts that are adjacent to a public street improved with concrete or asphalt, the following areas are required to be surfaced with an all-weather material:
    - I. Driveways, drive aisles, parking facilities, and all associated off-street maneuvering and circulation,
    - II. Loading areas, and
    - III. An apron, twenty-five (25) feet in length measured from the edge of parking areas and loading areas, of an all-weather material, into any outdoor storage area.
  - c. For temporary uses or overflow parking needs, the Planning Director may permit construction of parking areas using alternative materials (such as grass pavers, coarse aggregate), provided that:
    - I. The perimeter of such parking area is defined by curbs, bollards, or other similar device(s), to control vehicular traffic, and
    - II. The use of such facility shall be limited to temporary uses, having received a temporary use permit per Article 10, and overflow parking needs for periods not to exceed thirty (30) days in any given year.

## 11-602. Driveways

- A. **Single-Family Detached, Duplex, and Rowhome Driveway Standards.** A single slab or ribbon driveway from the property line to legal, off-street parking shall be provided and shall be in conformance with the following criteria.
  1. **Limit of One.** One (1) single slab or ribbon driveway and one (1) curb cut shall be permitted per every seventy- (70) feet of frontage of a single-family residential lot. A maximum of one (1) curb cut per unit for two family/attached residential. A maximum of two (2) curb cuts may be allowed per parcel.
  2. **Access.**
    - a. No single-family, duplex, or rowhouse use shall take access from collector or arterial streets.
    - b. Other residential parcels taking access from collector or arterial streets shall share driveways to protect public safety by limiting curb cuts.
  3. **Single-Slab Driveway Design Standards.**
    - a. Single-slab driveways shall not exceed thirty-two (32) feet wide at the property line.
    - b. Single-slab driveways shall be surfaced with concrete, decorative concrete, patterned concrete, porous asphalt, concrete pavers paving blocks, or other materials approved by the Planning Director.

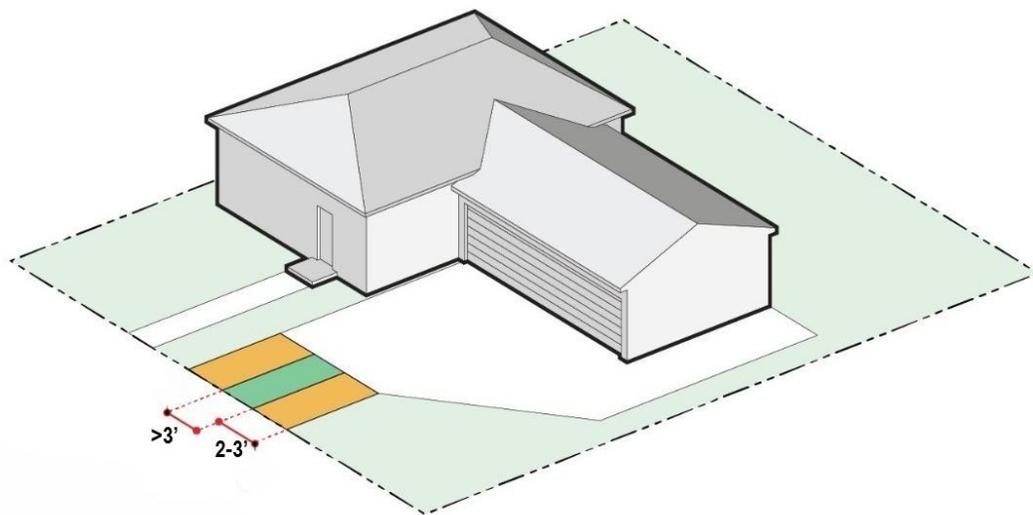
Figure 11-602(A)(3): Single-Slab Driveway Standards



4. **Ribbon Driveway Design Standards.**

- a. Ribbons shall be a minimum of two (2) feet wide and a maximum of three (3) feet wide.
- b. Ribbons shall be a minimum of three (3) feet apart measured from their nearest edges. The space between ribbons shall be planted in turf grass or other ground cover used in the front yard.
- c. Ribbons shall be surfaced with concrete, decorative concrete, patterned concrete, porous asphalt, concrete pavers paving blocks, or other materials approved by the Planning Director.

Figure 11-602(A)(4): Ribbon Driveway Standards



- 5. **Garage Access Drive.** A garage access drive that is the width of the garage, as measured from the garage door(s) plus an additional one (1) foot on either side of the garage door(s), is required to extend for a minimum distance of twenty (20) feet from the garage door(s) to the property line.

6. **Parking Pad.**

- a. **Limit of One.** A driveway serving a single-family detached, accessory dwelling, or duplex use

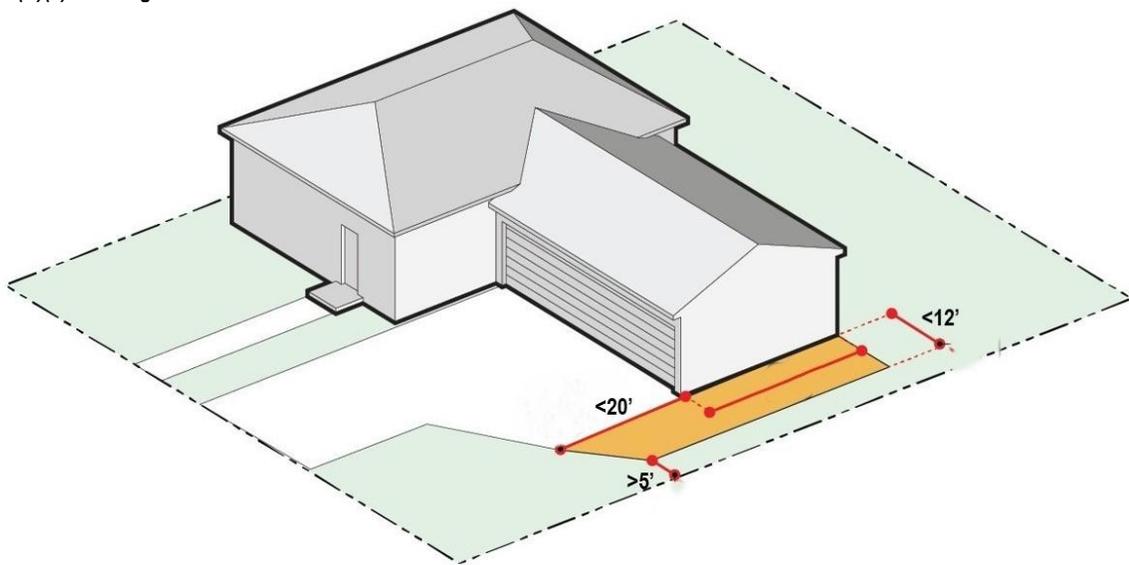
may be extended to include one (1) parking pad.

**b. Configuration.**

- I. A parking pad shall be a maximum of twelve (12) feet wide.
- II. The portion of the parking pad adjacent to the driveway shall have a maximum length of twenty (20) feet, as measured from the front façade line of the garage. A minimum of seven (7) foot taper shall be included in the twenty (20) foot maximum.
- III. The portion of the parking pad adjacent to the garage shall have a maximum length equal to the depth of the garage, as measured from the front façade line of the garage.

- c. Location.** The parking pad shall be set back a minimum of five (5) feet from any side property line.

**Figure 11-602(A)(6): Parking Pad Standards**



**B. Multifamily, Mixed-Use, and Nonresidential Driveway Standards.**

**1. Location.**

- a. Where an off-street parking and/or loading area of a lot abuts an alley or a corner side street, access to the off-street parking and/or loading area shall be obtained from a driveway off the alley or corner side street.
- b. No lot can have multiple driveways on one street for vehicular ingress and egress without a minimum of three hundred (300) foot separation between such curb cuts along a street.

**2. Driveway Design Standards.**

- a. The maximum width of driveways serving multifamily, mixed-use, or nonresidential uses shall be thirty-two (32) feet unless otherwise approved by the Public Works Director and the City Council to assure compliance with acceptable engineering and traffic design principles and standards.
- b. Driveways for multifamily and nonresidential uses shall be surfaced with an all-weather material.

**C. General Driveway Standards.**

1. **Driveways Connecting to Unimproved Streets.**
  - a. If any driveway regulated by this Section is to connect to any unimproved street, a culvert of the kind, size, and length recommended by the City Engineer shall be procured by the property owner at their expense, which will be installed by the City Street Department on the proper grade as determined by the City Engineer.
  - b. The driveway from the culvert to the sidewalk (or, if no sidewalk exists, then to the sidewalk line) shall be graded to a uniform grade.
2. **Driveways Connecting to Improved Streets.**
  - a. If a driveway regulated by this Section is to connect to a paved street, said driveway shall be constructed in conformance with the requirements established by the City Engineer and approved by the City Council.
  - b. All driveways constructed henceforth and connecting to a paved street shall be paved with concrete from the edge of the pavement to the property line, with allowances for public sidewalks.
  - c. A drive approach may be constructed with a brick surface between the sidewalk line and the location where the finished surface of the drive is at least three (3) inches above the street gutter grade, provided the brick portion is laid over concrete base and the City Council grants permission for the brick installation by resolution.
  - d. An existing concrete driveway may be overlaid with asphalt per the requirements established by the City Engineer and approved by the City Council provided a permit is acquired by a Licensed Asphalt Worker.
  - e. The Public Works Director may grant a property owner permission to gravel or asphalt surface (six (6) inch minimum depth) a new drive to a paved street without curb and gutter.

## 11-603. Landscape

The landscaping and screening regulations provide additional guidance on developing sites within Fremont by addressing landscaping and screening requirements. They are designed to improve the community's appearance, buffer potentially incompatible land uses from one another, and conserve the value of properties within the city. The standards and requirements set out in this Section are intended to:

- Protect and preserve the appearance and character of the community,
- Promote the health and quality of life of the residents of the city through the protection of trees,
- Promote the planting of trees and shrubs that are native to Nebraska, and
- Establish standards for removal, maintenance, and planting of trees.

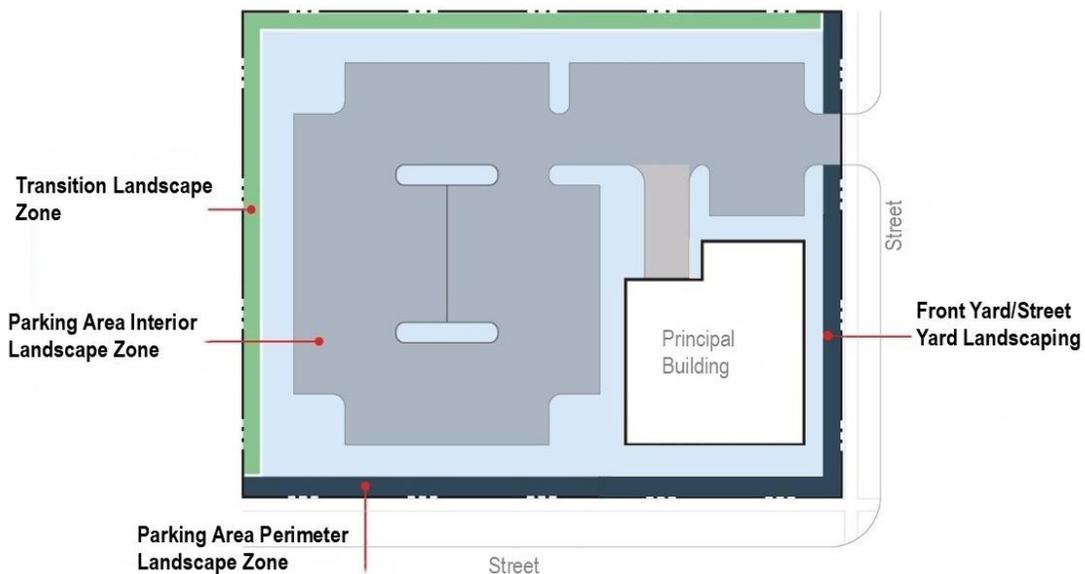
### A. Application. The provisions of this Section shall apply to the following:

1. Lot landscaping. Single-family attached, single-family detached, and manufactured housing residential lots, and mobile home parks or mobile home subdivisions, shall be surrounded by yard areas. Any plants in excess of the minimum required plants may be installed in any location on the lot provided there is adequate room for healthy growth and stability. Required plants shall be installed as follows:
  - a. Front Yards. Front yards shall be planted with at least one (1) tree, except if the abutting rights-of-way are planted with street trees within fifteen (15) feet of the front property line.
  - b. Rear Yards. Rear yards abutting an arterial street or a collector street shall be planted with at least one (1) tree.
  - c. Groundcovers and Sod. Areas of residential lots that are not covered by buildings, driveways, or other all-weather surfaces shall be sodded or planted with permitted groundcovers, unless they are covered by woodlands or other natural area.
2. Proposed new development, redevelopment, substantial improvements, additions, alterations, and changes of occupancy use of properties constructed after October 1, 2000. The following situations further define when landscape standards are required:
  - a. Parking lot perimeter and interior landscaping. The construction or installation of any new off-street parking lot containing ten thousand (10,000) or more square feet. The expansion of any existing off-street parking area if the expansion would result in ten thousand (10,000) or more square feet, in which case the requirements of this Section apply only to the expanded area.
  - b. Transition zone landscaping. The construction or installation of any new primary building or primary use, and the expansion of any existing primary building or primary use that results in an increase in gross floor area by more than thirty (30) percent. In the case of expansions that trigger compliance with transition zone requirements, transition zone landscaping is required only in proportion to the degree of expansion. The Planning Director is authorized to allow the transition zone to be established adjacent to the area of expansion or to disperse transition zone landscaping along the entire site transition zone.
  - c. The complete redevelopment (demolition or reconstruction of any property) shall require compliance with all landscaping requirements.
  - d. Properties using public incentives such as Tax Increment Financing, Public Grant Funds, LB840, sales tax financing or other public funding shall comply with all landscaping requirements.
  - e. Front yard and street yard landscaping. The construction or installation of any new primary building or primary use, or the expansion of any existing primary building or primary use that results in an

increase in gross floor area by more than thirty (30) percent. In the case of expansions that trigger compliance with front or street yard landscaping, the landscaping is required only in proportion to the degree of expansion.

3. Where standards in the UDC reference application of this Section's landscape and screening standards.
4. When the Planning Commission or City Council requires landscape and screening above or in addition to the requirements of this Section during their applicable review of Conditional Use Permits or Planned Developments when warranted based on evidence of adverse impacts on adjacent property or the public.
5. The following shall apply for Species Diversity on all developments, regardless of minimum landscape requirements, unless otherwise approved by the Planning Director in conjunction with approval of vegetated storm water management areas.
  - a. A minimum of fifty (50) percent of the plant materials used on a parcel that is less than one-half (0.5) acre shall be drought tolerant native species.
  - b. A minimum of sixty (60) percent of the plant materials used on a parcel that is between one-half (0.5) and five (5) acres shall be drought tolerant native species. Total landscape elements, excluding turf, shall not be comprised of more than thirty (30) percent of any single species or fifty (50) percent of any genus.
  - c. A minimum of seventy-five (75) percent of the landscape elements used on a parcel that is greater than five (5) acres shall be drought tolerant native species. Total landscape elements, excluding turf, shall not be comprised of more than twenty (20) percent of any single species or twenty-five (25) percent of any genus.

**Figure 11-603(A): Landscape Zone Standards**



**B. Exceptions. The standards of this Section do not apply to the following:**

1. Remodeling, rehabilitation, or improvements to existing uses, buildings, or structures which change the location of structures, parking, or other site improvements by less than fifty (50) percent.
2. Additions or enlargements of existing uses or structures which increase floor area or impervious coverage by less than fifty (50) percent. Where such additions or enlargements are twenty (20) percent or greater, these provisions shall apply only to that portion where the new development occurs.
  - a. The landscape and screening standards shall apply where cumulative increases amount to over fifty (50) percent within a five (5) year period.
3. Transition zone and screening requirements that were in effect at the time of issuance of an original permit, regardless of whether an adjacent lot or site is subsequently rezoned to a less intensive district which would otherwise require compliance with transition zone or screening provisions.
4. Perimeter parking lot landscape when the area being buffered is thirty (30) inches or more below the street elevation.
5. Transition zone and screening requirements when the view between properties is otherwise blocked by natural features or built structures, not including those requiring screening application.
6. Natural areas that separate adjacent properties.
7. When the Planning Commission approves reductions in requirements for infill development sites.
8. New development, redevelopment, substantial improvements, additions, alterations, and changes of occupancy use of properties constructed before October 1, 2000

**C. Review Procedure.**

1. The provisions in this Section shall be applied to each individual lot or site when an application for a site plan or building permit on such lot is made. The Planning Director shall review the plan for compliance with the provisions of this Section.

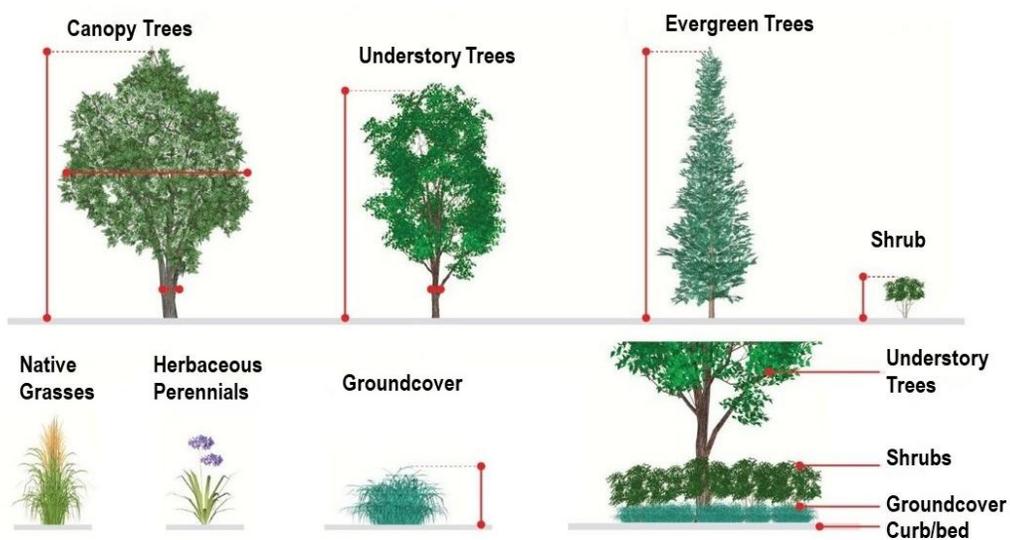
**D. Landscape Materials.**

1. Plantings used in required landscaped areas or screening areas:
  - a. Shall be appropriate for the conditions of the location, including sun and wind exposure, air quality, salt exposure, soil type, expected moisture content of soil, and slope.
  - b. Shall not be an invasive or a potentially invasive species. A list of invasive plants can be obtained online from the Nebraska Invasive Species Program website, as determined by the Nebraska Invasive Species Council and amended from time to time.
  - c. Shall be, wherever possible, native, or naturalized to the Fremont region. A list of Nebraska Native Trees and Shrubs, which are approved by the city for meeting the requirements of this Section, can be obtained online from the Nebraska Statewide Arboretum (NSA) website.
  - d. All plant materials shall conform in size, species, and spacing with this Section.
  - e. Dangerous or nuisance planting, as determined by the Planning Director, shall be avoided.
2. No artificial trees, shrubs, plants, or turf shall be used to fulfill the minimum requirements for landscape. Inorganic materials, such as stone or decorative pavers, may be used provided that such material does not comprise more than thirty-five (35) percent of the minimum required landscape area. Other concrete and/or asphalt pavement surfaces may not be used within the minimum required landscape area except for driveways and walkways.

3. Planting Types.

- a. **Canopy Trees.** A woody plant (deciduous or evergreen) having not less than a one and one-half (1.5) inch caliper with single central axis which typically reaches a mature height of not less than forty (40) feet and a mature spread of not less than fifteen (15) feet.
- b. **Understory Trees.** A woody plant having not less than a one and one-half (1.5) inch caliper, or six (6) feet tall for multiple stem species, that normally attains a mature height of at least fifteen (15) feet.
- c. **Evergreen Trees.** A tree having foliage that persists and remains green throughout the year and has a height of not less than six (6) feet at installation and maturing to a height of not less than twenty (20) feet.
- d. **Shrub.** A woody plant (deciduous or evergreen) of low to medium height characterized by multiple stems continuous from its base and having a height of not less than two (2) feet.
- e. **Native Grasses.** Grasses that are native to, or adapted to, the State of Nebraska, not including noxious weeds.
- f. **Herbaceous Perennials.** Plants with non-woody stems whose above-ground growth largely or totally dies back during winter months but whose underground plant parts (roots, bulbs, etc.) survive.
- g. **Groundcover.** Herbaceous plants, other than turf grass, or prostrate shrubs normally reaching an average maximum height of eighteen (18) inches at maturity.

Figure 11-603(D): Planting Type Standards



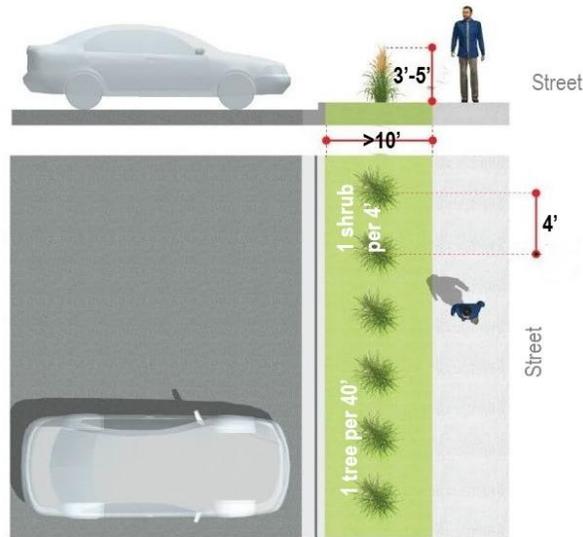
E. Installation Standards.

- 1. In any landscaped area:
  - a. No landscape or screening installed shall obstruct the view from or to any driveway approach, street, alley, or sidewalk; be within any clear sight triangle definition; or be placed within any utility easement.
  - b. Plants shall be sited and spaced to allow for proper growth to mature size.

- c. No tree shall be planted under or within ten (10) lateral feet of any overhead utility line unless the species can accommodate pruning or has a mature height that avoids interacting with utility lines.
    - d. No plantings shall be within a utility easement.
  - 2. The Planning Director shall review all earthen berm locations to determine how the berms relate to drainage and public utilities.
  - 3. Landscape shall be fully installed with adequate irrigation assurances before issuing a permanent certificate of occupancy.
  - 4. All landscape zones shall be guaranteed to the City for a period of twenty-four (24) months following City approval of installation.
  - 5. Any required landscaped zone greater than one hundred and fifty (150) square feet in area, shall be provided with an underground irrigation system or be provided with a portable water supply within fifty (50) feet of said landscaped areas.
- F. **Maintenance.**
  - 1. Upon installation of required landscape materials, each owner shall take appropriate actions to ensure their continued health and maintenance. Required landscaping that does not remain healthy shall be replaced consistent with this Section and the approved landscaping plan for the project.
  - 2. Dead plant materials shall be replaced within sixty (60) days upon notification from the City, taking into consideration the season of the year, and shall have at least the same quantity and quality of landscape elements as initially approved. If the particular project is constructed in more than one (1) phase, the sixty (60) day timeframe shall apply to each individual phase.
- G. **Measurements.**
  - 1. When the computation of the required number of trees, shrubs, or other required materials results in a fraction of one-half (0.5) or greater, the requirement shall be rounded up to the next whole number.
  - 2. Caliper is the measured diameter (inches) of the tree trunk taken six (6) inches above the ground or top of the root ball up to and including four (4) inch caliper size.
  - 3. Plants, as used in this Section, shall meet the following minimum size at installation:
    - a. Canopy tree: One and one-half (1.5) inch caliper.
    - b. Understory tree: One (1) inch caliper.
    - c. Evergreen tree: Six (6) feet in height.
    - d. Shrub: Three (3) gallon container.
    - e. Native grasses and Perennials: One (1) gallon container.
- H. **Existing Tree Preservation.** Existing trees shall be preserved to the greatest extent possible and when preserved shall be counted toward the satisfaction of landscape standards when the trees are in good health and located in the area subject to landscape standards. The following efforts shall be made to retain existing trees:
  - 1. No live, high-quality tree(s) with a four (4) inch diameter at breast height may be removed without first applying for tree removal and receiving approval from the City.
  - 2. Roadways, storage areas, and parking lots should be located away from valuable tree stands.

3. Cutting and filling in the vicinity of valuable trees should be minimal.
  4. If more than one-third (1/3) of the tree's root zone is to be affected by construction, the tree should be part of the removal plan and replaced with the appropriate number of trees.
  5. Tree Replacement Standards. Any tree approved for removal, or a tree identified to be preserved is removed or damaged, shall be replaced with new trees in accordance with the following schedule:
    - a. All replacement trees shall have a minimum caliper of two and one-half (2.5) inches and shall consist of canopy and understory trees as deemed appropriate by Planning Director.
    - b. If the tree(s) approved for removal is (are) dead from natural causes prior to the date of the tree removal permit, then no replacement tree(s) are required for them.
- i. Parking Lot Perimeter Landscaping, Front Yard Landscaping and Street Yard Landscaping.**  
 Landscape required by this Section shall be in addition to landscape required under other Sections of this UDC. Unless otherwise noted, each unenclosed parking area with a paved surface of ten thousand (10,000) square feet or more and all drive-through lanes which abut a public or private right-of-way, excluding alleys, and front yards and street yards shall comply with the following regulations.
1. Parking lot perimeter landscaping -
    - a. Perimeter landscaping. Each unenclosed parking area shall provide a minimum fifteen (15) foot wide landscape transition zone along any street property line with at least one (1) medium or large tree or evergreen every forty (40) linear feet of the property line along the transition area.
    - b. One (1) shrub or native grass planting, the height of which shall not be less than three (3) feet nor greater than five (5) feet, shall be planted for every four (4) feet of landscape area length. Such plantings may be clustered or spaced at even intervals as deemed appropriate by the City.
    - c. Landscaped areas outside of shrubs/native grasses and tree masses shall be planted in live groundcover.
    - d. A fully opaque masonry wall or fence with a minimum height of three (3) feet and maximum height of four (4) feet shall be installed between the parking lot and landscape area in the DC District only.
  2. Front Yard Landscaping and Street Yard Landscaping
    - a. A fifteen (15) foot wide landscape strip shall be provided on any street property line with at least one (1) medium or large tree or evergreen every forty (40) linear feet of the property line along the frontage area.
    - b. Single-family, duplex, attached single family or rowhouses are exempt from this requirement.

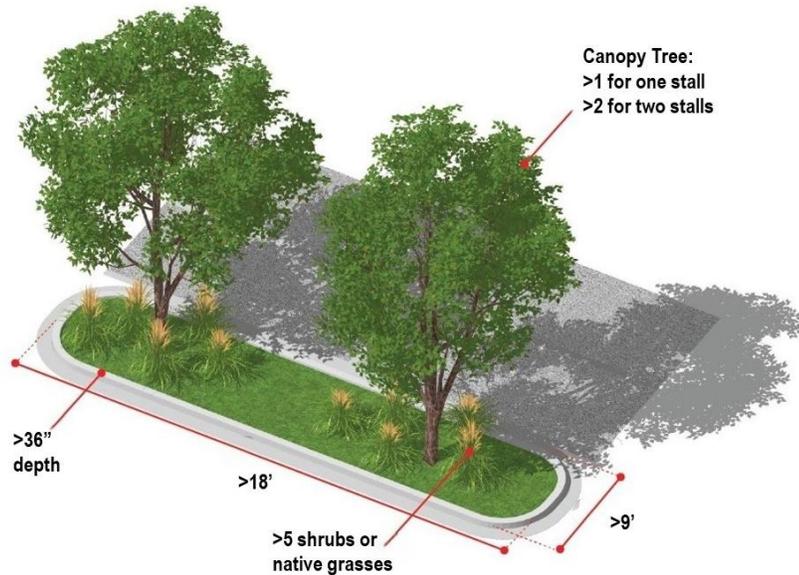
**Figure 11-603(l)(2): Parking Area Perimeter Landscape Zone Standards Example**



3. Any landscape transition zone can exclude any area from the calculations that is used for natural storm water drainage improvements such as rain gardens, bioswales, and other methods with limited structural components.
  4. Any parking area, regardless of size, which abuts a residential district shall provide a six (6) foot opaque fence in accordance with Section 11-605: *Fences*. An eight (8) foot opaque fence will be required in the event that grade differences do not screen the parking lot from the abutting residential district.
  5. Landscape or screening installed in any required landscape zone shall not obstruct the view from the off-street parking area to any driveway approach, street, alley, or sidewalk. Landscaping shall not obstruct any views among parking spaces, circulation ways, or visibility between vehicles and pedestrians.
- J. **Parking Lot Interior Landscaping.** Landscape required by this Section shall be in addition to landscape required under other Sections of this UDC. The parking area interior landscape zone regulations of this Section apply to the following:
1. Parking Lot Interior Landscaping.
    - a. Off-street parking areas consisting of fewer than ten-thousand (10,000) square feet that are located to the front or side of the principal building shall be required to terminate all rows of parking with a parking area end cap, but shall otherwise be exempt from the other requirements of this Subsection.
    - b. Off-street parking areas consisting of fewer than ten thousand (10,000) square feet that are located in the rear of the principal building shall be exempt from the requirements of this Subsection.
    - c. Understory trees, evergreen trees, shrubs, native grasses, groundcover, and other plant materials may be used to supplement the required plantings but shall not create visibility concerns for automobiles and pedestrians.
    - d. If parking area end caps, medians, and/or islands are designed as storm water management areas, deviations from required plantings may be approved by the Planning Director.

- e. Parking endcaps and islands shall be planted with a combination of turf, trees, and understory landscaping such as ornamental grasses, shrubs and flowering perennials. In islands with trees, rock mulch may be allowed as an alternative groundcover to turf or understory landscaping.
- f. Property zoned GI, General Industrial is exempt from this requirement.
- g. Areas of property that are primarily utilized for tractor-trailer or heavy equipment parking and circulation are exempt from this requirement.
- h. Parking Area End Cap Standards.
  - I. Size. Parking area end caps shall be a minimum nine (9) feet wide by eighteen (18) feet long and shall have a minimum soil depth of thirty-six (36) inches. Double rows of parking shall provide parking area end caps opposite one another to form a continuous single end cap.
  - II. Planting. A minimum of one (1) canopy tree and five (5) shrubs or native grasses shall be provided for every parking area end cap. If the end cap extends the width of a double bay, then two (2) canopy trees shall be provided.
  - III. Design. Parking area end caps shall be protected with concrete curbing or other suitable barriers approved by the Planning Director. Such end caps shall be properly drained or irrigated as appropriate to the site conditions to ensure survivability of plant materials and proper storm water management function.

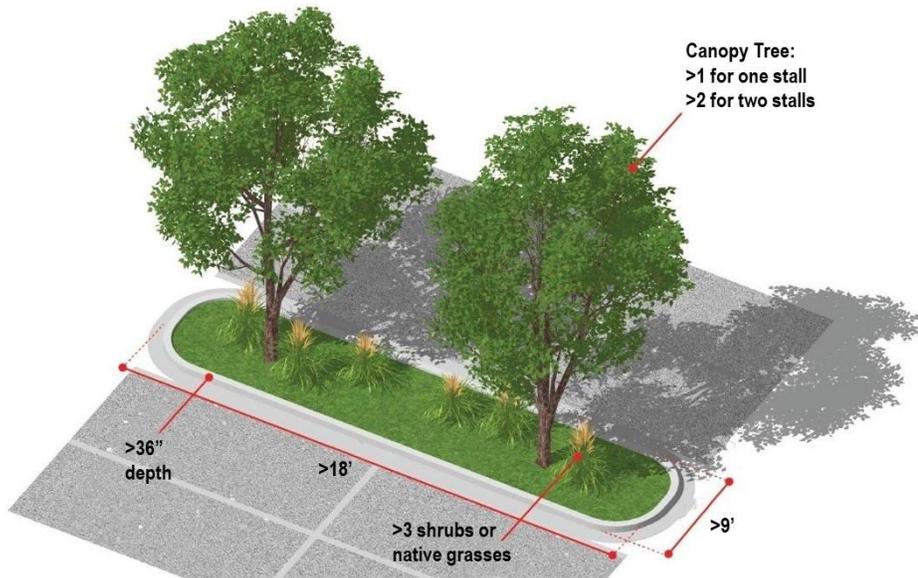
**Figure 11-603(J)(1)(h): Parking End Cap Standards**



- i. Parking Area Island Standards.
  - I. Size. Parking area islands shall be a minimum nine (9) feet wide by eighteen (18) feet long and shall have a minimum soil depth of thirty-six (36) inches. Double rows of parking shall provide parking area islands opposite one another to form continuous single islands.
  - II. Planting. A minimum of one (1) canopy tree and three (3) shrubs or native grasses shall be provided for every parking area island. If the island extends the width of a double bay, then two (2) canopy trees shall be provided.

- III. Design. Parking area islands shall be protected with concrete curbing or other suitable barriers approved by the Planning Director. Such islands shall be properly drained or irrigated as appropriate to the site conditions to ensure survivability of plant materials or proper storm water management function.

Figure 11-603(J)(1)(i): Parking Island Standards



- K. **Transition Landscape Zone Requirements.** Transition zones are areas that include a variety of methods to screen the potential impacts of intensive uses, whereas the yards required in Article 3: *Base District Specific Standards* are distance requirements. It is not expected that the transition area will totally screen such uses but rather will minimize land use conflicts and enhance aesthetics. Landscape required by this Section shall be in addition to landscape required under other Sections of this UDC.
  - 1. Transition Zone Provisions. The owner, developer, or operator of the use within District A shall install and maintain a landscape transition zone on their lot or site, as set forth in this Section. A transition zone can be included in the yard setback but the transition zone requires vertical plantings and must be at least ten (10) feet wide along the length of the property line.
    - a. Transition zones are required between zoning districts with a common lot line, as indicated in Table 11-603(K)(2): *Transition Zone Requirements*. Transition zone requirements do not apply when a street separates adjacent zoning districts.
    - b. Transition zones are required for certain uses and circumstances as indicated in this UDC.
    - c. Transition zones are not required on lots for single-family, duplex, or rowhome uses in any district.
    - d. Transition zones distances are the same as the required yard setback, including when adjacent to residential districts, which are listed in tables in Article 3: *Base District Specific Standards*.

2. Transition Zone Planting Treatment.
  - a. Each required transition zone must be entirely landscaped and free of paved areas, access ways, storage, or other disturbances.
  - b. At least one (1) medium or large tree or five (5) shrubs/hedge plants, or combination thereof, shall be planted within every forty (40) linear feet of the transition zone. For example, an eighty (80) foot length of transition zone can have one (1) tree for a forty (40) foot section and five (5) shrubs/hedge plants for the other forty (40) foot section.
    - i. A continuous row of native grasses can be substituted for tree or shrub planting requirements when a fence is provided in accordance with Section 11-605: *Fences*.
  - c. Transition zone plantings may be located in small groupings to appear more naturally spaced.
  - d. Low impact development and similar storm water management features are permitted in a required transition zone and are excluded from the area when calculating transition zone planting requirements.

**Table 11-603(K)((2): Transition Zone Requirements**

	District B (Less Intensive Adjacent District)		
District A (More Intensive District) [1]	R-L, R-A, AG	R-1, R-2	R-3, R-4, MH
R-3, R-4, MH	Applies	Applies	N/A
NC	Applies [3]	Applies [3]	Applies [3]
GC	Applies [2]	Applies [2]	Applies [2]
FC	Applies [2]	Applies [2]	Applies [2]
DC	N/A	N/A	N/A
LI	Applies	Applies	Applies
GI	Applies	Applies	Applies
PA	Applies	Applies	Applies

*Notes*

[1] Fence requirements between commercial and residential uses in Section 11-605: *Fences* also applies. The landscape transition zone width still applies.

[2] Only applies to adjacencies between nonresidential uses and residential land uses in District B.

[3] Only applies to nonresidential uses established in District A.

## 11-604. Screening

- A. **Screening Application.** Screening is required when one (1) or more of the following conditions in the more intensive zoning district in Table 11-603(K)(2): *Transition Zone Requirements* is directly visible from and faces toward the boundary of the less intensive zoning district, or for certain uses and circumstances listed in this UDC, including:
1. Outdoor storage areas or storage tanks unless otherwise screened.
  2. Loading docks, refuse collection points, and other service areas. See *Specific Use Screening* in Subsection C.
  3. Major machinery or areas housing a manufacturing process.
  4. Major on-site traffic circulation areas or truck and/or trailer parking. See *Specific Use Screening* in Subsection C.
  5. Sources of glare, noise, or other environmental effects.
  6. Ground-mounted mechanical equipment, including, but not limited to, air-conditioning condensers, heat pumps, ventilation units, and computer cooling equipment. See *Specific Use Screening* in Subsection C.
  7. Bailing or stockpiling of cardboard or other shipping or packaging materials.
  8. Surface parking lots with one hundred (100) or more stalls directly adjacent to less intensive districts.
- B. **Screening Treatment.**
1. An opaque barrier shall be provided which visually screens the conditions listed in Subsection A. above, or for certain uses and circumstances listed in this UDC. Any of the following methods can satisfy screening treatment requirements:
    - a. A solid wood, PVC, and/or masonry fence or wall at least eight (8) feet in height.
    - b. A landscaping screen using evergreen or deciduous materials capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six (6) feet within three (3) years of planting.
    - c. A landscaped earthen berm with a maximum slope of three (3) to one (1), rising no less than six (6) feet above the existing grade of the lot line separating the zoning districts.
    - d. Any combination of these methods that achieves a cumulative height of six (6) feet.
  2. Screening shall not adversely affect surface water drainage.
  3. Screening may be interrupted to provide access drives to service areas, building loading purposes, or pedestrian and bicycle access. Such breaks or interruptions shall not exceed twenty (20) percent of the length of the required screened area.
  4. The screening treatments in this Section are minimum standards. Other sections of the UDC may require higher standards which, when specified, supersede this Section.
  5. If screening requirement location also fall within a Transition Landscape Zone, the Transition Landscape Zone requirements, including area widths, must be met in addition to the screening requirements.
  6. Screening treatments are exempt when:
    - a. The Planning Director verifies that an existing fence or wall is structurally sound, in good

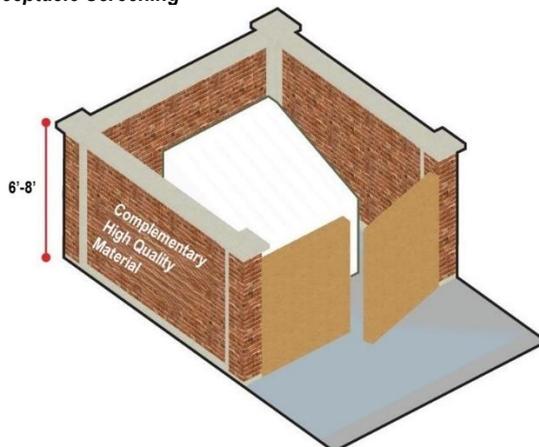
repair, and of an upright condition,

- b. The height and level of screening of an existing fence or wall meets the intent of this Section with regard to screening treatments or other UDC requirements, and
- c. The existing fence or wall is not removed, repaired, or replaced unless in conformance with the standards in the UDC.

**C. Specific Use Screening.**

1. Grease Trap, Trash, and Recycling Receptacles. The following requirements shall apply to all nonresidential, mixed-use, and multifamily development.
  - a. Grease traps, trash, and recycling receptacles shall be located in a side or rear yard, unless it is not possible to provide service access in such locations.
  - b. Grease traps, trash, and recycling receptacles shall be enclosed on three (3) sides.
  - c. Grease trap, trash, and recycling receptacle enclosures shall have a minimum height of six (6) feet and a maximum height of eight (8) feet.
  - d. Materials and elevations for enclosures that are attached to buildings shall be designed to be integrated into the primary building.
  - e. If enclosures are to be attached to buildings, they shall comply with applicable fire and building codes.
  - f. Enclosure openings shall be gated with an opaque material (excluding chain link fence with slats) and shall not be directly visible from a public right-of-way and/or adjoining residential area.
  - g. Access drives shall be constructed per the specifications established for multifamily, mixed-use, and nonresidential driveways as established in Section 11-602(B): *Multifamily, Mixed-Use, and Nonresidential Driveway Standards*.
  - h. Enclosure structures shall be designed to protect the walls from damage by containers. Such protection may be provided by use of barrier curbing, reinforced masonry walls, bollards, or other similar means.
  - i. Grease trap, trash, and recycling receptacle enclosures shall not occupy required parking and/or loading areas.

**Figure 11-604(C)(1): Receptacle Screening**



2. Loading Areas, Truck Parking Areas, and Drive-Throughs. Loading areas, truck parking areas, and drive-throughs that are adjacent to any property in a residential district shall use a Landscape Transition Zone treatment as specified in Table 11-603(K)(2): *Transition Zone Requirements*.
3. Ground/Wall-Mounted Mechanical Units. The following regulations shall apply to all ground/wall-mounted mechanical units, including but not limited to generators, air-conditioning condensers, heat pumps, ventilation units, computer cooling equipment, etc., and any related utility structures and equipment. Tanks and/or silos accessory to an industrial or agricultural use are exempt from these requirements, as approved by the Planning Director.
  - a. Locating mechanical units within the primary building is strongly encouraged in order to minimize exterior visual impacts.
  - b. Ground mounted mechanical units are prohibited within the front yard, regardless of whether screening is provided.
  - c. Wall-mounted mechanical units are prohibited on the front or street side façade, regardless of whether screening is provided.
  - d. Ground/wall-mounted mechanical units that are visible from any public right-of-way or adjacent residential property shall be screened from public view.
  - e. Materials used for screening shall be designed and established so that the area or element being screened is no more than twenty (20) percent visible through the screen. Evergreen hedges shall be allowed.
  - f. Chain-link fence or slats in chain-link fence shall not be used to meet this requirement.

**Figure 11-604(C)(3): Ground Equipment Screening**

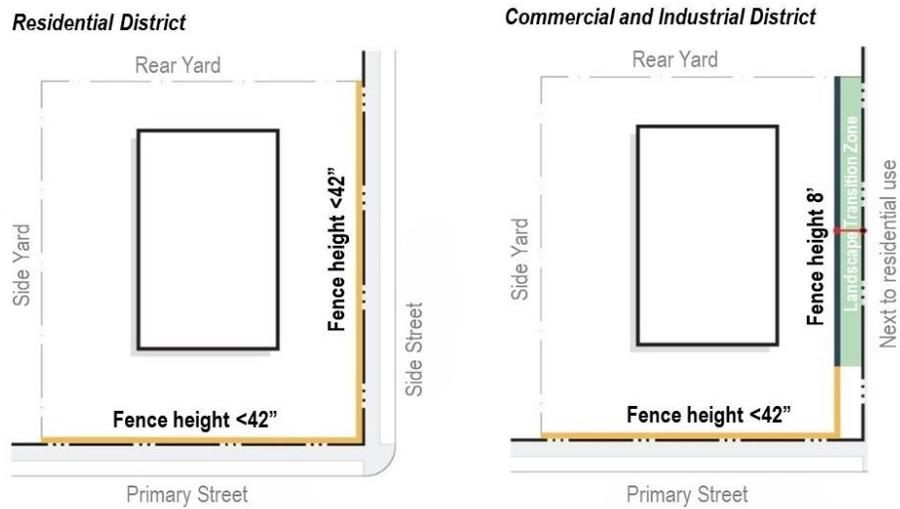


**11-605. Fences**

- A. **Application.** This Section applies to all fences and walls with a height of thirty (30) inches or more, above finished grade. Any owner or authorized agent who intends to construct, enlarge, alter, repair, relocate, or demolish a fence, shall first apply to the Planning Director and obtain the required permit.
- B. **Corner Visibility.** In any residential district, no fence or continuous planting shall be maintained within thirty (30) feet of any corner lot street intersection, as measured at the street centerline, which would impair the clear sight triangle of a motor vehicle operator.
- C. **Location.** No fences are permitted in the public street right-of-way. Fences shall be erected and maintained to avoid limiting or obstructing water flow in natural drainage courses or drainageways created within easements.
- D. **Easements.** Any 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 removal or replacement cost shall be the fence owner's responsibility.
- E. **Materials.** The following materials shall be required:
  - 1. Fences shall only be constructed of weather-resistant or pre-finished (painted or stained and sealed) wood, PVC/resin, stone or masonry materials, or ornamental wrought iron or powder-coated aluminum for fences/walls that are not used for screening purposes.
  - 2. Chain-link is only permitted in side and rear yards, not adjacent to a public or private street. Other locations require a Conditional Use Permit.
  - 3. Barbed wire fences are not permitted except for in the GI District when the owner can show it is needed for security. Barbed wire is defined as any fence that includes in its material barbs, blades, razors, electric current, or other features specifically designed to injure or abrade an individual or animal that attempts to negotiate the fence.
- F. **Orientation.** The finished side of all fences shall face outward toward any adjacent rights-of-way. All support posts and stringers shall face inward toward the property upon which the fence is located or the subdivision it screens (if located on commonly owned property).
- G. **Permit.** No fence shall be constructed or reconstructed without a building permit.
- H. **Height.**
  - 1. Grade for determining the maximum height above grade for fences and walls:
    - a. For a fence or wall along a street right-of-way, grade shall be the highest point of the pavement lying between the intersection of the centerline and a projection of the side lot lines.
    - b. For a fence or wall between the front lot line and the front building line, grade shall be prorated between the grade at the front lot line and the grades at the building.
    - c. For a fence or wall along the rear lot line or between the front building line and the rear lot line, grade shall be the grade at the building.
  - 2. Residential Districts.
    - a. No fence or wall over forty-two (42) inches in height or more than fifty (50) percent opaque shall be in any front or street side yard.

- b. No fence or wall over six (6) feet in height shall be maintained in any side or rear yard unless next to a nonresidential use.
- 3. Places of Assembly and Institutional Uses in Residential Districts. The maximum height of fences installed as part of any use that provides secured outdoor space for the use of children within residential zoning districts shall be eight (8) feet.
- 4. Nonresidential Districts. The maximum height of a fence for any permitted use in any nonresidential zoning district shall be eight (8) feet.
  - a. No fence shall be allowed in the front yard of commercial districts except for ornamental wrought iron or powder-coated aluminum fences/walls that are a maximum of forty-two (42) inches in height and are not used for screening purposes.
  - b. A solid fence or wall that is eight (8) feet high shall be required between commercial or industrial uses and residential uses. The Planning Commission may grant a waiver to reduce the height of a required privacy fence to six (6) feet if it can be demonstrated that there is no adverse impact on an abutting residential property.

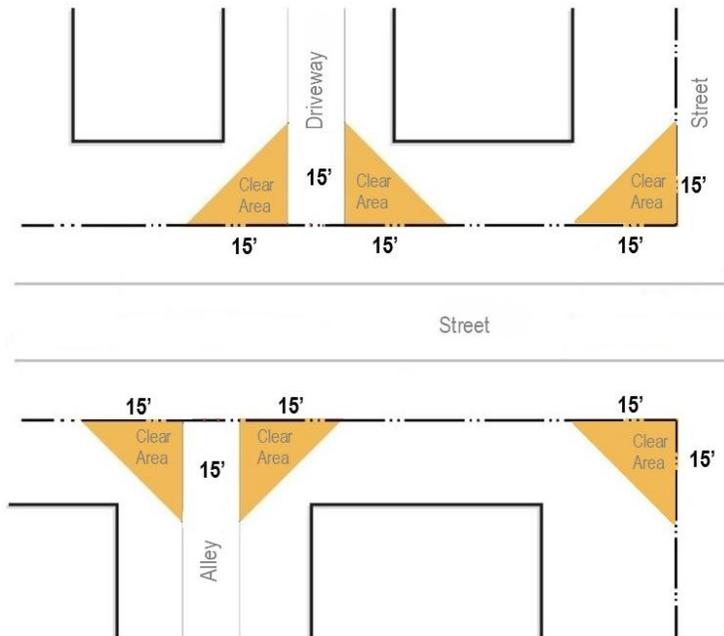
**Figure 11-605: Fence Standards**



## 11-606. Visibility Standards

- A. A clear sight triangle shall be maintained to minimize sight obstructions at intersections.
- B. No building or structure shall be permitted that creates a visual obstruction taller than three (3) feet in the clear sight triangle.
- C. The clear sight triangle shall be measured as a distance fifteen (15) feet from:
  - 1. The point where the driveway meets a right-of-way facing property line, or
  - 2. The point where two (2) right-of-way facing property lines meet.

**Figure 11-606: Clear Sight Triangle Standards**



**11-607. Outdoor Lighting**

- A. **Fixture Classification.** All outdoor lighting fixtures, with the exception of wall-mounted accent lighting and outdoor lighting in the AG District, shall either have a fixture cutoff classification of “Full Cutoff” or be fully shielded, unless otherwise expressly permitted in this UDC.
- B. **LED Fixtures.** All outdoor lighting using a light-emitting diode (LED) fixture shall meet the following standards:
  - 1. **Color Rendering.** Outdoor LED fixtures shall be rated a minimum Color Rendering Index (CRI) value of seventy (70) or higher.
  - 2. **Color Temperature.** Outdoor LED fixtures shall have a correlated color temperature between four thousand (4,000) and five thousand (5,000) degrees Kelvin.
- C. **Pole Mounted Outdoor Lighting.**
  - 1. **Pole Placement.** Pole-mounted outdoor lighting shall be located outside of utility easements, designed in coordination with required landscape areas in Section 11-603: *Landscape*.
  - 2. **Maximum Pole Height.** Pole-mounted fixtures shall be mounted at the following maximum heights by district as shown in Table 11-607(C)(2): *Pole Mounted Outdoor Lighting Height*.

Table 11-607(C)(2): Pole Mounted Outdoor Lighting Height	
Zoning Districts	Maximum Height (feet)
<i>Residential Districts</i>	25
<i>DC, NC, PSP Districts</i>	30
<i>All Other Districts</i>	37

- D. **Wall-Mounted Accent Lighting.** Wall-mounted accent lighting shall be integrated with the architectural character of the building and shall use low-luminosity lamps, with two thousand (2,000) source lumens or less. The illumination on any vertical surface shall not exceed one-half (0.5) maintained foot candle and shall not spill over roof lines or building edges.
- E. **Outline Lighting Prohibited.** Outline lighting shall be prohibited.
- F. **Maximum Light Level at Property Line.** All outdoor lighting fixtures shall be designed and located so that the maximum light level shall be one-half (0.5) maintained foot candles at any property line.
- G. **Light Level Measurement.**
  - 1. **Location.** Light level measurements shall be made at the property line of the property upon which the light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the property of the complainant or at any other location on the property of the complainant. Measurements shall be made at finished grade (ground level), with the sensor in the horizontal position and not mounted more than six (6) inches above ground level, and with the light- registering portion of the meter held parallel to the ground and pointing upward.
  - 2. **Light Meter Specifications.** Light levels shall be measured in foot candles with a direct-reading portable light meter. The meter shall:
    - a. Have cosine and color correction,
    - b. Have an accuracy tolerance of no greater than plus or minus five (5) percent, and
    - c. Have been calibrated within the last two (2) years.

## 11-608. Storm Water Management

All development shall be planned to manage the first inch of storm water on site by using one (1) or more of the strategies included in the City of Fremont's Drainage Criteria Manual, as approved by the City Engineer.

### A. Grading, Excavating, and Land Clearing.

1. **Generally.** For the purpose of managing storm water runoff and erosion, and protecting significant stands of trees, land may not be clear cut, graded, excavated, or filled in preparation for development. Instead, a grading, excavating, and land clearing permit shall be requested and subsequently issued before removing any vegetative cover, grading, excavating, filling, or generally disturbing the land.
  - a. Exception: Clear-cutting, grading, excavating, or filling solely for agricultural purposes.
2. **Compliance With Standards.** To issue a grading, excavating, and land clearing permit, the Public Works Director must determine the extent of compliance with the criteria set out in Subsection 11-609(G): *Water Quality and Quantity* and Subsection 11-603(H): *Existing Tree Preservation*.
3. **Determination.** A determination of compliance may be found by the Public Works Director according to the criteria set out in Subsection 11-609(G): *Water Quality and Quantity* and Subsection 11-603(H): *Existing Tree Preservation*.
4. **Procedure.** Applications for grading, excavating, and land clearing are processed according to the sequential steps set out in Article 10: *Zoning Procedures*, and shall be referred to other departments and agencies, as applicable, and then decided by the Public Works Director.

## 11-609. Environmental Quality

- A. **Purpose.** The purpose of this Section is to establish standards for the management of illicit discharges, soil erosion, sediment deposition, and the environmental impacts of land uses (e.g., noise, vibration, air quality, water quality, and glare), in order to ensure that the City continues to provide a desirable environment for residences, recreation, education, culture, commerce, and industry.
- B. **Application.**
  1. **Environmental Quality.** This Section sets out the standards for hours of noise, ground vibration, emissions of air pollutants, discharge of water pollutants, and creation of glare. In some cases, these provisions reference standards that are enforced by other levels of government. Such references do not waive requirements for compliance with any other applicable state or federal standards that are not listed.
  2. **Illegal Discharges and Storm Damage Prevention.** Set out in Subsection 11-609(G): *Water Quality and Quantity*, are the technical standards for storm water management within the City and the extra-territorial jurisdiction.
- C. **Noise.**
  1. **Construction and Related Activities.** It is unlawful for any person to operate or permit to be operated any device or equipment in any building, construction, demolition, land clearing, excavation or similar outside construction area, or perform alteration, or repair work on any building, structure or project, between sunrise and sunset if the noise level created exceeds seventy (70) dB(a) measured at the nearest property line or at any point further from the noise source at issue.
    - a. Exceptions for noise levels over seventy (70) dB(a) are for those construction activities necessary for the construction of the facility and that are performed in a reasonable manner, as determined by the Building Official, within the following, but not limited to the following, factors to be considered when determining whether necessary construction noise levels above seventy (70) dB(a) are reasonable:
      - I. Radios or amplified music are not reasonable.
      - II. Improperly functioning construction equipment is not reasonable, and placement of

equipment at the borders of a construction project is not reasonable when other suitable locations that would lessen the noise impact are available.

- b. The Director of Public Works may also authorize construction activities before sunrise and after sunset, for good cause shown, including, but not limited to, minimizing peak hour traffic disruptions and performing emergency repairs.

## 2. Enforcement.

- a. For the purpose of enforcement of the provisions of this Section, noise levels of alleged violations shall be measured on the A-weighted scale with a sound level meter satisfying at least the applicable requirements for Type 2 sound level meters as defined in ANSI S1.4-1983, or its successor. The meter shall be set for slow response speed, except that for impulse noises or rapidly varying sound levels (motor vehicles), fast response speed may be used. Prior to measurement, the meter shall be verified, and adjusted to 0.3 decibels by means of an acoustical calibrator.
- b. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone shall be used so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. When measuring the sound level of alleged violations sporadic noise sources such as aircraft and emergency vehicles shall not be considered.

## 3. Exemptions.

- a. Under unusual circumstances, not specified in these regulations, and at the discretion of the City Administrator, a noise level may exceed the ranges specified herein.
- b. The following noise sources, activities and uses shall be exempt from the noise regulations specified in this Section:
  - I. Noises of safety signals, warning devices, and emergency pressure relief valves.
  - II. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
  - III. Noises resulting from work associated with the erection, construction, alteration or maintenance by public utilities, streets, municipal departments or commissions, or any governmental agencies of underground or overhead electrical, gas, water or wastewater, transmission or distribution system, collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electrical substations, gas regulator stations, connection therewith, reasonably necessary for the furnishing of utility service by such public utilities, municipal departments, commission or any governmental agencies, or for the public health, safety or welfare.

## D. Vibration.

- 1. **Generally.** Ground vibration can be a nuisance to abutting property, regardless of whether it is perceptible without instruments. The performance standards of this Subsection are intended to provide standards of protection to limit the negative effects of ground vibration in the City and extra-territorial jurisdiction.
- 2. **Measurement.** For the purposes of this Section, vibration is measured as “vibration decibels”, or VdB, which are calculated as:  $VdB = 20 \times \log_{10} (v / (1 \times 10^{-6} \text{ in. /sec.}))$ , where “v” is the rms velocity amplitude, calculated as the average of the squared amplitude of the vibration, measured in inches per second. Under contract to the City, an operator trained to measure vibrations shall make all such measurements and shall submit and certify them to the City. Properties where it is found that the vibration decibels exceed those set out in Table 11-609(D)(4): Vibration Standards, shall be subject to penalties as described herein and any fees charged by the operator hired by the City.

3. **Point of Measurement.** All measurements shall be taken at the property line with a sound level meter meeting ANSI specifications for a Type 2 or better general purpose sound level meter. The A-weighted response shall be used.
4. **Standards.** The standards of Table 11-609(D)(4): *Vibration Standards*, shall be met as measured at the property line, except as provided in Subsection E, below.

Table 11-609(D)(4): Vibration Standards		
Zoning Districts	Maximum Continuous Ground Vibration by Adjoining Property	Maximum Impact Vibration (10 or fewer events per day)
<i>R-L, R-A, R-1, R-2, R-3, R-4, MH Districts</i>	55 VdB	70 VdB
<i>DC, NC, GC Districts</i>	60 VdB	
<i>FC, LI, GI, PA, AG Districts</i>	65 VdB	

- E. **Maximum Sound Levels.** All noises shall be muffled so as not to be objectionable because of intermittence, beat frequency, or
  1. **Exception.** The following are excepted from these standards:
    - a. Vibrations emanating from construction activities between the hours of 7:00 a.m. and 7:00 p.m. that are temporary in nature, and commonly associated with construction activity.
    - b. Transient vibrations of moving vehicles.
- F. **Air Quality**
  1. **Generally.** No material may be discharged into the air from any source in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of people or to the public in general; or to endanger the health, comfort, or safety of any considerable number of people or to the public in general; or to damage other businesses, vegetation, or property.
  2. **Standards Compliance.** Air quality shall be maintained according to state and federal standards. Demonstration of compliance shall be provided as required by this Section.
  3. **Emissions.** Applicants for the approval of uses that will emit air pollutants that are subject to regulation pursuant to the Federal Clean Air Act shall demonstrate compliance with that law.
  4. **Control of Wind-Blown Dust.** Landowners shall control wind-blown dust.
  5. **Odors.** The emission of odors determined by the Planning Commission to be obnoxious to most people shall be prohibited. Such odors shall be measured at the property line of the operation.
  6. **Gases.** No release of noxious or poisonous gases shall be permitted except as provided in this Section. Measurements of sulfur dioxide, hydrogen sulfide, or carbon monoxide shall not exceed five (5) parts per million taken at the property line of the operation.
- G. **Water Quality and Quantity**
  1. **Sewage and Wastes.** No operation shall discharge into a sewer, storm drain, or on the ground any material which is radioactive, poisonous, or detrimental to either waste water or storm water systems.
    - a. **Purpose and Intent.** The purpose of these regulations is to protect the public health, safety, environment, and general welfare through the regulation of non-storm water discharges to the City of Fremont Municipal Separate Storm Sewer System ("MS4") to the maximum extent practicable as required by federal and state law. These regulations establish methods for controlling the introduction of pollutants into the MS4 to comply with requirements of the National Pollutant Discharge Elimination System ("NPDES") permit process. The objectives of these regulations are:

- I. To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
  - II. To prohibit illicit connection and discharges to the MS4.
  - III. To prevent non-storm water discharges, generated as a result of spills, inappropriate dumping, or disposal, to the MS4.
  - IV. To establish legal authority to carry out all inspections, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with these regulations.
- b. **Applicability.** These regulations shall apply to all water generated on any developed and undeveloped lands entering the MS4 unless explicitly exempted.
  - c. **Compatibility with Other Regulations.** The regulations of this Section are not intended to modify or repeal any other regulations, rule, regulation, or other provision of law. The requirements of this Section are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law. Where these regulations are in conflict with any other provisions of law, the provision which is more restrictive or imposes higher protective standards for human health or the environment shall control.
  - d. **Responsibility for Administration.** The Director of Public Works, or their appointee, shall administer, implement, and enforce the provisions of this Section.
  - e. **Severability.** The provisions of this Section are hereby declared to be severable. If any provision, clause, sentence or paragraph of this Section or the application thereof to any person, establishment or circumstance shall be held invalid, such invalidity shall not affect the other provisions or application of this Section.
  - f. **Ultimate Responsibility.** The standards set forth herein and promulgated pursuant to this Section are minimum standards. Therefore, this Section is not to be interpreted as meaning that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.
  - g. **Prohibition of Illegal Discharges.** No person shall discharge or cause to be discharged into the MS4 or watercourses any material other than storm water, including, but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standard. The commencement, conduct or continuance of any illegal discharge to the municipal separate storm drain system is prohibited except as follows:
    - I. Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater de-watering system), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if de-chlorinated, typically less than one part per million of chlorine), firefighting activities, and any other water source not containing pollutants.
    - II. Discharges specified in writing by the Director of Public Works as being necessary to protect public health and safety.
    - III. Dye testing is an allowable discharge but requires a written notification to the Director of Public Works prior to the time of testing.
    - IV. The prohibition shall not apply to any non-storm water discharge permitted under a NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.
  - h. **Prohibition of Illicit Connections.** The construction, connection, use, maintenance, or continued

existence of any illegal connection to the MS4 is prohibited.

- I. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- II. A person is considered to be in violation of this Section if the person connects a line conveying pollutants to the MS4 or allows such a connection to continue.
- i. **Industrial or Construction Activity Discharges.** Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provision of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Fremont prior to the allowing of discharge to the MS4.
- j. **Requirements to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices.** The City will adopt requirements identifying Best Management Practices ("BMP's") for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the MS4 or waters of the State of Nebraska or of the United States of America. The owner or operator of a commercial or industrial establishment shall provide, at the expense of the owner or operator, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or water courses through the use of these structural and non-structural BMP's to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with the industrial provisions of this Section is required. These best management practices shall be part of a storm water pollution prevention plan as necessary for compliance with requirements of the NPDES permit.
- k. **Watercourse Protection.** Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.
- l. **Suspension of MS4 Access.**
  - I. **Suspension due to illicit discharges in emergency situations.** The City may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment or to the health or welfare of persons, or to the MS4 or waters of the State of Nebraska or of the United States of America. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the State of Nebraska or of the Unites State of America or the minimize danger to persons or property.
  - II. **Suspension due to the detection of illicit discharge.** Any person discharging to the MS4 in violation of this Section may have his or her MS4 access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its MS4 access. The violator may petition the City for reconsideration and hearing. A person commits an offense if that person reinstates MS4 access to premises terminated pursuant to this Section, without prior written approval of the Director of Public Works.
- m. **Access and Inspection of Properties and Facilities.** The Director of Public Works or designee may enter an inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this Section.
  - I. Employees of the City may enter and inspect facilities subject to regulations under this Section as often as may be necessary to determine compliance with this Section.

- II. Facility operators shall allow authorized employees of the City ready access to all parts of the premises for the purposes of inspection, sampling, examination, and copying of records that must be kept under the conditions of a NPDES permit to discharge storm water and performance of any additional duties as defined by state and federal law.
  - III. The City may set up on any permitted facility such devices as are necessary in the opinion of the Director of Public Works to conduct monitoring and/or sampling of the facility's storm water discharge.
  - IV. The City may require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure accuracy.
  - V. The temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the operator.
  - VI. Unreasonable delays in allowing the City access to a permitted facility is a violation of a storm water discharge permit and of this Section. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Section.
  - VII. If the representatives of the City have been refused access to any part of the premises from which storm water is discharged, the City may seek issuance of a search warrant from any court of competent jurisdiction.
- n. **Notice of Accidental Discharge and Spills.**
- I. Notwithstanding other requirements of the law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity, or operation has information of any known or suspected release of pollutants or non-storm water discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging in the MS4, waters of the State of Nebraska or of the United States of America, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effect of the discharge.
  - II. Said person shall notify the Director of Public Works or their designee within twenty-four (24) hours of the nature, quantity, and time of occurrence of the discharge. Notifications that are not in writing shall be confirmed by written notice address and mailed to the Director of Public Works or their designee within three (3) days of the telephone call or personal notification. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the action taken to prevent its recurrence. Such records shall be retained for at least three (3) years, said person shall also take immediate steps to ensure no recurrence of the discharge or spill.
  - III. In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.
  - IV. Failure to provide notification of a release as provided herein is a violation of these regulations.
- o. **Notice of Violation.** Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this Section, the Director of Public Works or their designee may order compliance by written notice of violation to the responsible person. Such notice shall be sent via regular U.S. Mail or via hand delivery to the owner of the property.

- I. The notice shall include:
  - II. The name and address of the alleged violator,
  - III. The address when available or a description of the building, structure, or land upon which the violation is occurring or has occurred,
  - IV. A statement specifying the nature of the violation,
  - V. A description of the remedial action,
  - VI. A statement of the penalty or penalties that shall or may be assessed against the person or persons to whom the notice of violation is directed, and
  - VII. A statement that the determination of violation may be appealed to the City Administrator by filing a written notice of appeal within thirty (30) days of service of notice of violation.
  - VIII. In the event of a violation, the City may require:
    - i. The performance of monitoring, analyses, and reporting,
    - ii. The elimination of illicit discharges and illegal connections,
    - iii. That violating discharges, practices, or operations shall cease and desist,
    - iv. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property,
    - v. Payment of costs to cover administrative and abatement costs,
    - vi. The implementation of pollution prevention practices, and
    - vii. Such other action(s) as may be reasonably necessary to accomplish the purpose of this Section.
- p. **Appeal of Notice of Violation.** Any person receiving a Notice of Violation may appeal the determination of the City of Fremont. The notice of appeal shall be in writing and shall be delivered to the City Clerk within thirty (30) days from the date of the Notice of Violation. Hearing on the appeal before the City Administrator shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The pendency of an appeal shall not relieve the responsible person from complying with the requirements of the Notice of Violation, unless the Director of Public Works otherwise consents in writing.
- q. **Enforcement Measures after Appeal.** If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within fifteen (15) days of the decision of the City Administrator, then representatives of the City may enter upon the subject private property and are authorized to take any measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the City of Fremont or designated City contractor to enter upon the premises for the purposes set forth above.
- r. **Cost of Abatement of the Violation.** Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest with the City Clerk objecting to the assessment or to the amount of the assessment within thirty (30) days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice or if an appeal is taken within thirty (30) days after a decision on said appeal, the assessment may be collected pursuant to law.
- s. **Injunctive Relief.** It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Section. If a person has violated or continues to violate the provisions of this Section, the City may petition for a preliminary or permanent injunction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation.

- t. **Alternative Actions upon Violation.** In lieu of enforcement proceedings, penalties, and remedies authorized by this Section, the City may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, waterway cleanup, or other community service work.
  - u. **Violations Deemed a Public Nuisance.** In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Section is a threat to public health, safety, and welfare and is declared and deemed a nuisance and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
  - v. **Criminal Prosecution.**
    - I. Any person who has violated or continues to violate this Section shall be liable for criminal prosecution to the fullest extent of the law and shall be subject to a criminal penalty of one thousand (1,000) dollars per violation per day for each day deemed to be in violation.
    - II. The City may recover all attorney fees, court costs, and other expenses associated with enforcement of this Section, including sampling and monitoring expenses.
  - w. **Remedies Not Exclusive.** The remedies listed in this Section are not exclusive or any other remedies available under any applicable federal, state, or local law and it is within the discretion of the City to seek cumulative remedies.
2. **Grading, Excavating, Erosion, and Sediment Control.** Measures to protect water quality during construction and for land disturbance activities shall be implemented pursuant to the standards set out herein.
- a. **Purpose and Intent.** The intent of these regulations is to protect and enhance the water quality of local receiving waters in a manner pursuant to and consistent with the Federal Clean Water Act and also to provide for the health, safety, and general welfare of the citizens of the City through the regulation of non-storm water discharges to the Municipal Separate Storm Sewer System (MS4) according to locally approved standards as required by federal and state law. The objectives of these regulations are:
    - I. To regulate the contribution of pollutants to the MS4 by storm water discharges from construction activity and development,
    - II. To reduce pollutants in storm water discharges from construction activity by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land,
    - III. To require the construction of locally approved, permanent storm water runoff controls to protect water quality and maintain non-erosive hydrologic conditions downstream of construction activity and development,
    - IV. To require responsibility for and long-term maintenance of structural storm water control facilities and nonstructural storm water management, and
    - V. To enable legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this Section.
  - b. **Liability.** The standards set forth herein and promulgated pursuant to this Section are minimum standards that shall apply to all construction activities which require an approval according to Subsection 11-609(G)(2)(f): *Applicability*.
  - c. **Applicability.** Compliance with this Section does not act as a waiver or defense to any person for operating a construction site in a manner that allows or causes storm water contamination, pollution, or unauthorized discharge of pollutants. The owner and operator of any approved construction activity shall be responsible for ensuring all activity - including the action of all

contractors, subcontractors, trade professionals, delivery personnel, and other present at a construction site - are in compliance with all requirements of this Section. An owner shall be responsible for notifying the City when any transfer of ownership and liability under this Section occurs.

- d. **Responsibility for Administration.** The City shall administer, implement, and enforce the provisions of this Section. Any powers granted or duties imposed upon the City may be delegated by the Mayor or City Administrator or to persons or entities acting in the beneficial interest of or in the employ of the City.
- e. **Severability.** The provisions of this Section are hereby declared severable. If any provision, clause, sentence, or paragraph of this Section or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Section.
- f. **Applicability.**
  - I. This Section shall be applicable to all construction activity and land developments requiring - including, but not limited to - site plan applications, subdivision applications, building applications, and right-of-way applications from the City, unless exempt pursuant to Subsection 2 below. These provisions apply to all portions of any common plan of development or sale which would cause the disturbance of at least one (1) acre of soil even though multiple, separate, and distinct land development activities may take place at different time on different schedules.
  - II. The following activities are exempt from this Section:
  - III. Any emergency activity that is necessary for the immediate protection of human health, property, or natural resources, and
  - IV. Construction activity that provides maintenance and repairs performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility.
- g. **Prohibitions.**
  - I. Except as provided in Subsection 11-609(G)(1): *Sewage and Wastes*, it is unlawful for any person to discharge non-storm water into the MS4.
  - II. It is unlawful for any person or representative at a construction site to cause, or allow to be caused the impact, damage, and/or removal of any approved storm water pollution control measure without the owner's knowledge and consent.
  - III. Storm water discharges from construction activities shall not cause or threaten to cause pollution, contamination, or degradation of waters of the state.
- h. **Construction.**
  - I. General Requirements for Construction Activities.
    - i. Except for construction activity relating to the Building Phase of Development, the City shall require proof of coverage by a NDEQ general permit authorization for Storm Water Discharges from Construction Sites before providing approval for construction activity covered in Subsection 11-609(G)(2)(f): *Applicability*.
    - ii. A pre-construction meeting shall be scheduled with an appointed official with the City to review the installation of all temporary erosion and sediment control BMP's included on the approved erosion and sediment control plan at least two (2) days before any construction activities are scheduled to start.
    - iii. Solid waste, industrial waste, yard waste, and any other pollutants or waste on any construction site shall be controlled through the use of BMP's. Waste or recycling containers shall be provided and maintained by the owner or contractor on

construction sites where there is the potential for release of waste. Uncontained waste that may blow, wash, or otherwise be released from the site is prohibited. Sanitary waste facilities shall be provided and maintained in a secured manner.

- iv. Ready-mixed concrete, or any materials resulting from the cleaning of vehicles or equipment containing such materials or used in transporting or applying ready-mixed concrete, shall not be allowed to discharge from any construction site.
  - v. Cover or perimeter control shall be applied within fourteen (14) days to any soil stockpiles that will remain undisturbed for longer than thirty (30) days.
  - vi. Disturbed soil shall be managed with BMP's that are adequately designed, installed, and maintained according to locally approved technical standards, specifications and guidance for the duration of the construction activity to minimize erosion and contain sediment within the construction limits.
  - vii. Sediment tracked or discharged onto public right-of-way shall be removed immediately.
  - viii. Bulk storage structures for petroleum products and other chemicals shall have adequate protection to contain all spills and prevent any spilled material from entering the MS4 or waters of the state.
  - ix. Temporary BMP's shall be removed and disturbed areas shall be stabilized with permanent BMP's at the conclusion of all approved construction activity.
- II. **Requirements for the Building Phase of Development.** Any person who engages in construction activity is responsible for compliance with this Section and all applicable terms and conditions of the approved construction activity and Storm Water Pollution Prevention Plan ("SWPPP") as it relates to the building phase of development. The following information shall be included with the application for a building permit and be submitted to the Building Official:
- i. Either the legal description and NPDES permit number for the Larger Common Plan of Development, or
  - ii. The location of the property where the building phase of development is to occur, and
  - iii. A certification that the building phase of development for the property described on the application for a building permit will be conducted in conformance with these regulations and the Construction Activity SWPPP.
- III. **Construction Activity Storm Water Pollution Prevention Plan.**
- i. A SWPPP shall be prepared and updated in accordance with locally-approved technical standards, specifications, and guidance for construction activity within the City and shall include an erosion and sediment control plan for land disturbance.
  - ii. The SWPPP shall include a description of all potential pollution sources, temporary and permanent BMP's that will be implemented at the site as approved by the City.
  - iii. The erosion and sediment control plan shall be submitted to the City for review with any application covered in Subsection 11-609(G)(2)(f): *Applicability*.
  - iv. Land disturbing activities may not proceed until approval of the erosion and sediment control plan is provided by the City.
  - v. The owner or operator is required to have a copy of the SWPPP readily available for review with content that reflects the current condition of the construction activity and all records that demonstrate compliance and are required by this Section.
  - vi. The SWPPP shall include a description of routine site inspections.

- vii. The owner or their representative shall inspect all BMP's at intervals of no greater than fourteen (14) days and within twenty-four (24) hours after any precipitation event of at least one half (0.5) inch.
- viii. Inspections of BMP's shall be conducted by an individual or person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact storm water quality and to assess the effectiveness of any erosion and sediment control measures selected to control the quality of storm water discharges from the construction activity.
- ix. Inspection reports shall provide the name and qualification of the inspector, date of the evaluation, risks to storm water quality identified, and all corrective actions necessary to prevent storm water pollution.
- x. The owner or operator of a construction activity may be required to submit copies of inspection reports for review on a periodic basis by the City.
- xi. Based on inspections performed by the owner, operator, authorized City personnel, state, or federal regulators, modifications to the SWPPP will be necessary if at any time the specified BMP's do not meet the objectives of this Section. In this case, the owner shall meet with an appointed official of the City to determine the appropriate modification. All required modifications shall be completed within seven (7) days of receiving notice of inspection findings and shall be recorded in the SWPPP.
- xii. The owner or operator of a construction site shall be responsible for amending the SWPPP whenever there is a significant change in design, construction, operation, or maintenance, which has a significant effect on the potential for discharge of pollutants to the MS4 or receiving waters, or if the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with land disturbance.
- xiii. Records of inspections are to be maintained with the SWPPP for the life of the project. Inspections records are to be available to City inspectors upon request. Delay in providing a copy of the SWPPP or any requested records shall constitute a violation.

**IV. Requirements for Utility Construction.**

- i. Utility agencies or their representatives shall develop and implement BMP's to prevent the discharge of pollutants on any site of utility construction within the City. The City may require additional BMP's on utility construction activity. If the utility construction disturbs greater than one (1) acre, the utility agency must comply with the requirement of Subsection 11-609(G)(2)(h)(I): *General Requirements for Construction Activities*, and Subsection 11-609(G)(2)(h)(II): *Requirements for the Building Phase of Development*.
- ii. Utility agencies or their representatives shall implement BMP's to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed solid shall be managed and construction site exits shall be managed to prevent sediment tracking. Sediment tracked onto public right-of-way shall be removed immediately.
- iii. Prior to entering a construction site or subdivision development, utility agencies or their representatives shall obtain and comply with any approved erosion and sediment control plans for the project. Any impact to construction and post-construction BMP's resulting from utility construction shall be repaired by the utility company within forty-eight (48) hours.

- i. **Post-Construction.**
  - I. **Post Construction Requirements of Permanent BMP's.**
    - i. Land Development that meets the requirements of Subsection 11-609(G)(2)(f): *Applicability*, must address storm water runoff quality through the use of permanent BMP's. Permanent BMP's shall be provided for in the drainage plan for any subdivision plat, subdivision agreement, or other local development plans.
    - ii. Structural BMP's located on private property shall be owned and operated by the owner(s) of the property on which the BMP is located, unless the City agrees in writing that a person or entity other than the owner shall own or operate said BMP. As a condition of approval of the BMP, the owner shall also agree to maintain the BMP in perpetuity to its design capacity unless, or until, the City shall relieve the property owner of that responsibility in writing. The obligation to maintain the BMP shall be memorialized on the subdivision plat, subdivision agreement, or other form acceptable to the City and shall be recorded with the Public Works Department.
    - iii. Certification of Permanent BMP's. Upon completion of a project, and before a certificate of occupancy shall be granted, the City shall be provided a written certification stating that the completed project is in compliance with the approved Final Storm Water Plan. All applicants are required to submit "as built" plans for any permanent BMP's once final construction is completed and must be certified by a professional engineer licensed in the State of Nebraska. A final inspection by the City of all post-construction BMP's shall be required before a Certificate of Occupancy will be issued or any public infrastructure is accepted.
  - II. **Ongoing Inspection and Maintenance of Permanent BMP's.**
    - i. The owner of site must, unless an on-site storm water management facility or practice is dedicated to and accepted by the City, execute an inspection and maintenance agreement, that shall be binding on all subsequent owners of the permanent BMP's.
    - ii. Permanent BMP's included in a Final Storm Water Plan which are subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and to ensure compliance with the requirements of the agreement, the plan, and these regulations.
- j. **Technical Standards, Specifications, and Guidance.** All BMP's designed to meet the requirements of this Section shall reference the appropriate technical standards, specifications, and guidance as follows:
  - I. City Standards and Specifications for Construction,
  - II. Nebraska Department of Roads Drainage Design and Erosion Control Standards, Specifications and Guidance, and
  - III. Any other alternative methodology, approved by the Public Works Department, which is demonstrated to be effective.
- k. **Submissions from the General Public.** The City will consider information from the public as it pertains to the implementation and enforcement of these regulations.
  - I. **Authorization of Enforcement Personnel.** The City shall designate appointed personnel with authority to conduct inspections, issue notices of violation and implement other enforcement actions under this Section as provided by the City.
- l. **Right of Entry and Sampling.**
  - I. Whenever the City has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of these regulations, the owner or

operator shall provide access to the premises at any reasonable time to determine if there exists an actual or potential violation of the requirements of this Section. In the event that the owner or occupant refuses entry after a request to enter has been made, the City is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.

- II. The City shall have the right to employ such devices and undertake such an inspection, on or off premises, as are necessary, to determine whether the requirements of this Section are met. The inspection may include, but is not limited to, the following:
  - i. Sampling of any discharge and or process waters,
  - ii. The taking of photographs,
  - iii. Interviewing staff on alleged violations, and
  - iv. Accessing any and all facilities or areas within the premises that may have an effect on the discharge.

**m. Violations, Enforcement, and Penalties.**

- I. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Section. Any person who violates any of the provisions of this Section, shall be subject to one or more of the enforcement actions outline in this Section. Any violation or threatened violation may be restrained by injunction or otherwise abated in a manner provided by law.
- II. In the event the violation constitutes an immediate danger to public health or public safety, the City representative is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The City is authorized to seek costs of abatement as outlined herein.
- III. Compliance Directive. In addition to any other remedy available to the City, City inspectors may issue compliance directives at the time of inspection to require a person to implement actions that will correct any violation of this Section.
- IV. Notice of Violation.
  - i. Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this Section, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
    1. The performance of monitoring, analyses, and reporting,
    2. The elimination of illicit connections or discharges,
    3. That violating discharges, practices, or operations shall cease and desist,
    4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property,
    5. Payment of a fine to cover administrative and remediation costs, and
    6. The implementation of source control or treatment BMP's.
  - ii. If abatement of a violation or the restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to complete the remediation or restoration within the established deadline, the work may be done by the authorized enforcement agency or designee and the expense thereof shall be charged to the violator.
  - iii. Appeal of Notice of Violation. Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within ten (10) days from the date of the Notice of Violation. Hearing on the appeal before the

appropriate authority or its designee shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

- iv. Enforcement Measures after Appeal. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within ten (10) days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency and its designees are authorized to enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the City or designated agent to enter upon the premises for the purposes set forth above.
  - v. Stop Work Order. Whenever the City determines that any activity is occurring which is not in compliance with the requirements of this Section, the City may order such activity stopped upon service of written notice upon the owner and/or operator responsible for or conducting such activity. Such owner and/or operator shall immediately stop all activity until authorized in writing by the City to proceed. If the appropriate owner and/or operator cannot be located, the notice to stop shall be posted in a conspicuous place upon the area where the activity is occurring. The notice shall state the nature of the violation. The notice shall not be removed until the violation has been cured or authorization to remove the notice has been issued by the City. It shall be unlawful for any owner and/or operator to fail to comply with a stop work order.
  - vi. Cost of Abatement of the Violation. If the authorized enforcement agency abates a violation, then within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. Such notice shall be given by personal delivery or by mail to the last known address of the owner as shown in the records of the County Assessor. Such notice shall be effective upon the date of mailing or personal delivery. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days of the effective date of the notice. If no protest is filed, then the charges shall become due and payable on the date set forth in the notice, which date shall be after the expiration of the time in which to file an appeal, and such charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. In the event a protest is filed, a hearing on such protest shall be held before the appropriate authority or its designee within fifteen (15) days from the date of receipt of the written protest. If any charges are upheld upon completion of such hearing, then such charges shall become due and payable ten (10) days after the issuance of the order upon such protest and if not timely paid, such charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Such charges may also be recovered in a civil action against the owner or other person in control of the premises for which such charges were incurred, and any person violating any of the provisions of this Section shall be liable to the City for all costs, fees, charges, and expenses, including but not limited to administrative costs and legal fees and costs, be reason of such violation.
  - vii. Civil Penalties. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days after the City has taken the actions described above, the City may impose a penalty not to exceed one thousand (1,000) dollars (depending on the severity of the violation) for each day the violation remains unremedied after the receipt of the notice of violation.
- V. Criminal Penalties, Enforcement Costs.
- i. Any person who violates any provision of this Section shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of up to one thousand (1,000) dollars per violation per day and/or imprisonment for a period of time not to exceed one (1) year.

- ii. The City may recover all attorneys' fees, court costs, and other expenses associated with enforcement of these regulations, including sampling and monitoring expenses.
- VI. **Injunctive Relief.** The authorized enforcement agency may petition for a preliminary or permanent injunction restraining any person from undertaking any activities which would result in a violation or continued violation of this Section and may seek mandatory injunctive relief compelling the person to perform abatement or remediation of any violation of these regulations.
- VII. **Violations Deemed a Public Nuisance.** In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Section is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, or may be subject of a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance.
- VIII. **Remedies Not Exclusive.** Except as expressly provided above, the remedies in this Section are cumulative and the exercise of any one or more remedies shall not prejudice any other remedies that may otherwise be pursued for a violation of this Section. The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.
- n. **Action without Prior Notice.** Any person who violates a prohibition or fails to meet a requirement of this Section will be subject, without prior notice, to one or more of the enforcement actions identified herein, when attempts to contact the person have failed and the enforcement actions are necessary to stop an actual or potential discharge which presents or may present imminent danger to the environment, to the health or welfare of persons, or to the MS4.
- o. **Other Legal Action.** Notwithstanding any other remedies or procedures available to the City, if any person discharges into the MS4 in a manner that is contrary to the provisions of this Section, the City Attorney may commence an action for appropriate legal and equitable relief including damages and costs in the County Court. The City Attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger.

H. **Glare and Heat.**

- 1. **Glare from Use.** Glare from any process (such as or similar to arc welding or acetylene torch cutting), which emits harmful ultraviolet rays shall be performed in such manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines or street rights-of-way.
- 2. **Glare from Buildings and Structures.** Buildings and structures (including signs) shall be designed and oriented to avoid glare that materially interfere with the safe operation of streets, or the personal enjoyment of a neighboring resident.
- 3. **Heat.** No heat may be generated from an operation that raises the air temperature at the property line of the operation by more than five (5) degrees Fahrenheit above the ambient air temperature.
- I. **Fire Hazard.** No operation shall involve the use of highly flammable gases, acid, liquids, or other inherent fire hazards. This prohibition shall not apply to the normal use of heating or motor fuels and welding gases when handled in accordance with the regulations of Dodge County and the City of Fremont.
- J. **Storage of Chemical Products.** Any above or below ground storage of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed one hundred and fifty thousand (150,000) gallons when stored on a lot that is less than one (1) acre. Such storage shall not exceed twenty-five thousand (25,000) gallons in any one (1) tank. Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of twenty-five thousand (25,000) gallons shall be located at least fifty (50) feet from any structure intended for human habitation and at least two hundred (200) feet from a R-1, R-2, R-3, R-4, MH, NC, GC, DC, FC, PD-L, or P district.

## Article 7. Signs

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### 11-701. Purpose, Authority, and Findings

- A. **Purpose.** The purpose of this Article is to provide standards for signs in the City and its extra-territorial jurisdiction. The standards recognize the need to:
1. Protect public health, safety, and welfare,
  2. Maintain the City's attractive appearance, and
  3. Provide adequate opportunity for the display of commercial and noncommercial speech.
- B. **Authority.** The City has the authority to regulate signs under the United States Constitution. This Article advances important and substantial governmental interests. The regulations set out in this Article are unrelated to the suppression of constitutionally-protected free expression and do not involve the content of protected messages which may be displayed on signs, nor do they involve the viewpoint of individual speakers. The incidental restriction on the freedom of speech is no greater than is essential to the furtherance of the interests protected by this Article. Certain types of speech are not protected by the First Amendment due to the harm that they cause to individuals or the community, and speech that is harmful to minors may be prohibited in places that are accessible to minors.
- C. **General Findings of Fact and Objectives.**
1. The ability to display signs of reasonable size and dimensions is vital to the health and sustainability of many businesses, and the display of signs with noncommercial messages is a traditional component of freedom of speech.
  2. The City has an important and substantial interest in preventing a proliferation of signs because a proliferation of signs distracts motorists causing a hazard to traffic safety, degrades the character of the community, makes the community a less attractive place for commerce and private investment, and dilutes all the messages displayed along the City's streets by creating visual confusion and aesthetic

blight.

3. A proliferation of signs can be prevented by regulations that balance the legitimate needs of individual property owners to convey their commercial and noncommercial messages against the comparable needs of adjacent and nearby property owners and the interest of the community in safeguarding life, health, property, and public welfare, as well as providing for a high-quality community character.
4. Signs that are not constructed of weather-resistant materials are often damaged or destroyed by wind, rain, and sun, and after such damage or destruction, pose public safety hazard and degrade the aesthetics of the city's commercial corridors.
5. The City has an important and substantial interest in keeping its rights-of-way clear of obstructions and litter.
6. The use of outdoor signs and their location, density, size, shape, motion, illumination, and demand for attention can be injurious to the purposes of this UDC, and destructive to community character and property values, and that, as such, restrictions on outdoor signs are necessary and desirable.

## 11-702. Sign Measurement

### A. Sign Height.

1. **Generally.** Sign height is the distance from the lowest adjacent grade to the top of the total sign structure.
2. **Freestanding Signs.** The height of freestanding signs is measured as provided in Subsection A.1, above, unless:
  - a. The surface under the sign is lower than the centerline of the abutting street, or
  - b. The sign is constructed on a graded earthen mound or berm higher than the centerline of the abutting street, in which case the height is measured from the elevation of the centerline of the abutting street to the top of the total sign structure.

**Figure 11-702(A): Sign Height Measurement**



- B. **Sign Copy Area.** Sign copy area shall be computed by means of the smallest square, rectangle, circle, triangle, or combination thereof that shall encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the backing of the display or used to differentiate the sign from the sign base or structure against which it is placed. Sign copy area shall not include any supporting framework, bracing, decorative fence, or wall when such fence or wall otherwise meets UDC regulations and is clearly incidental to the display itself. A double-faced sign shall count as a single sign.
- C. **Sign Area.** Sign area shall apply to monument signs, pole signs, projecting signs, on-site traffic directional signs, all attached signs, and a-frame/sandwich board signs only. Sign area shall be computed by means of the smallest square, rectangle, circle, triangle, or combination thereof that shall encompass the extreme limits of the sign copy area and the sign base area. Sign area shall not include any supporting framework, bracing, decorative fence, or wall when such fence or wall otherwise meets UDC regulations and is clearly incidental to the display itself. A double-faced sign shall count as a single sign.

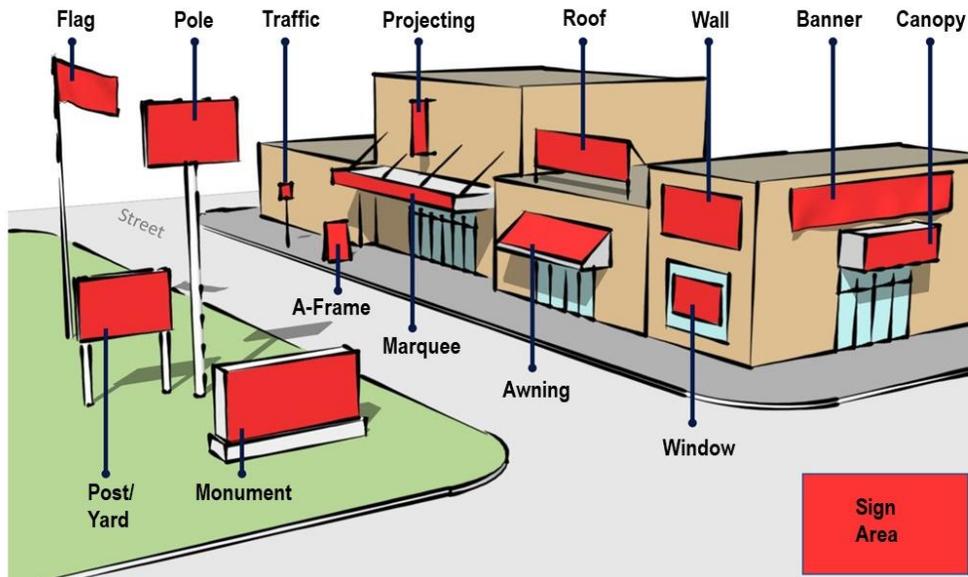
**Figure 11-702(B) and (C): Sign Area Measurement**



### 11-703. Sign Types per District

- A. The following key is to be used in the interpretation of Table 11-703(A): *Permitted and Allowed Sign Types by District*.
1. **Sign Types Requiring a Permit.** Sign types marked as “●” in the Table shall be permitted subject to all applicable regulations of this UDC and only after the issuance of a Sign Permit as detailed in Section 11-1003(l): *Sign Permit*.
  2. **Sign Types not Requiring a Permit.** Sign types marked as “○” in the Table shall be permitted subject to all applicable regulations of this UDC without the issuance of a Sign Permit.
  3. **Prohibited Sign Types.** A blank space in the Table indicates that a sign type is prohibited in the respective district.
  4. **Interpretation of Similar Sign Type.** If a proposed sign is not listed in the Table, the Planning Director shall determine if the sign is substantially similar to a sign listed in the Table. If it is, the standards applied to the proposed sign shall be the standards applicable to the similar sign. If not, the sign shall be regarded as prohibited.

Figure 11-703(A): Sign Types



**Table 11-703(A): Permitted and Allowed Sign Types by District**

Sign Type	District								
	AG	R Districts	DC	NC	GC	FC	LI	GI	PA
<i>Permanent, Freestanding On-Premises Signs [4]</i>									
Single-Tenant Monument Sign	• [1] [2]	• [1] [2]	•	•	•	•	•	•	•
Multi-Tenant Monument Sign			•	•	•	•	•	•	•
Pole Sign					•	•	•	•	•
On-Site Traffic Directional Sign	• [1]	• [1]	•	•	•	•	•	•	•
<i>Permanent, Attached On-Premises Signs</i>									
Wall Sign	• [1]	• [1]	•	•	•	•	•	•	•
Awning/Canopy Sign	• [1]	• [1]	•	•	•	•	•	•	•
Projecting Sign			•	•	•	•			
Window Sign, Permanent			•	•	•	•	•	•	•
Marquee Sign			•		•				
<i>Temporary, Freestanding On-Premises Signs</i>									
Ground Mounted Banner Sign	• [1]	• [1]		•	•	•	•	•	•
Feather Sign				•	•	•	•	•	
A-Frame/Sandwich Board Sign		○ [1]	○	○	○				
Post Sign	○	○		•	•	•	•	•	•
Yard Sign	○	○		•	•	•	•	•	•
<i>Temporary, Attached On-Premises Signs</i>									
Wall Mounted Banner Sign	[1]	[1]	•	•	•	•	•	•	•
Window Sign, Temporary			•	•	•	•			
<i>Permanent, Off-Premises Signs</i>									

Educational, Governmental, and Place of Assembly Off-Premises Sign		• [3]							
Electronic Changeable Message Off-Premises Sign				•		•	•		
<i>Notes:</i>									
[1] Sign shall be permitted for nonresidential, mixed-use, or multifamily developments only.									
[2] Sign shall be permitted at entryways or gateways to subdivisions or neighborhoods only.									
[3] Sign shall be permitted in the R-A District on property abutting a highway only.									
[4] The NC District sign standards apply to permitted places of assembly uses in R Districts									

### 11-704. General Sign Standards

#### A. Illumination.

1. **Location and Design of Light Source.** Whenever an external artificial light source is used for a sign, such source shall be located, shielded, and directed so as not to be directly visible from any public right-of-way or residential property. No receptacle or device housing a permitted light source for a sign shall protrude more than twelve (12) inches from the face of the sign or building to which it is attached except if such light source is ground mounted, locked in place, and cannot be redirected.
2. **Level of Illumination.** Illuminated sign brightness shall not exceed the maximum luminance level of seven hundred (700) cd/m<sup>2</sup> or Nits. . All artificial illumination shall be so designed, located, shielded, and directed as to prevent the casting of glare or direct light upon adjacent property or streets.

**11-705. Permanent, On-Premises Sign Standards**

A. Table 11-705(A) lists the bulk and locational standards for permanent, on-premise freestanding signs. Blank cells mean that sign type is not permitted in that district, according to Table 11-703(A): *Permitted and Allowed Sign Types by District*.

Table 11-705(A): Permanent, On-Premises Freestanding Sign Standards									
	District								
	AG	R Districts	DC	NC	GC	FC	LI	GI	PA
<i>All Permanent, On-Premises Freestanding Signs [2] [3]</i>									
Setback	A minimum of ten (10) feet from residential property lines A minimum of five (5) feet from nonresidential property lines and the public right-of-way								
Number per Lot	1		1	1	1	1	1	1	1
<i>Single-Tenant Monument, On-Premises Freestanding Sign</i>									
Maximum Sign Area	Thirty-two (32) sq ft		Twenty-eight (28) sq ft	Twenty-five (25) sq ft	Sixty-four (64) sq ft				
Maximum Height	Ten (10) feet		Ten (10) feet	Ten (10) feet	Fifteen (15) feet	Fifteen (15) feet	Fifteen (15) feet	Twenty (20) feet	Twenty (20) feet
<i>Multi-Tenant Monument, On-Premises Freestanding Sign</i>									
Maximum Sign Area			Thirty-two (32) sq ft	Seventy-five (75) sq ft	One hundred twenty (120) sq ft	One hundred twenty (120) sq ft	One hundred twenty (120) sq ft	One hundred twenty (120) sq ft	One hundred twenty (120) sq ft
Maximum Height			Fifteen (15) feet	Fifteen (15) feet	Twenty (20) feet	Twenty (20) feet	Twenty (20) feet	Twenty (20) feet	Twenty (20) feet
				One multi-tenant sign may be allowed per frontage.					
<i>Pole, On-Premises Freestanding Sign [1]</i>									
Maximum Sign Area					One hundred twenty (120) sq ft				
Maximum Height					Sixty (60) feet				
<i>Notes:</i>									
[1] On-Premises pole signs are only allowed on property zoned GC, FC, LI, GI or PA within the following corridors: 800 feet on either side of									

Highway 77 from S. Broad Street to the Highway 275 interchange; 500 feet on either side of Highway 77/275 from the Hwy 77/275 interchange to the Hwy 30/275/77 interchange at the north end of Fremont; 800 feet on either side of Highway 77/275 from the Hwy 30/77/275 interchange north to the limits of the extra-territorial jurisdiction; 500 feet on either side of N. Broad Street from Judy Ave. to the Hwy 30/77/275 interchange; and 500 feet on either side of Highway 30/23<sup>rd</sup> Street from the Hwy 30/77/275 interchange at the east end of Fremont to Platte River Road.

[2] No sign shall be placed in a manner which blocks points of ingress or egress, within any pedestrian circulation system, or within a clear sight triangle as detailed in Section 11-606: *Visibility Standards*.

[3] For a property that has frontage on more than one (1) street, unless otherwise limited herein, one (1) on-premise freestanding sign shall be permitted for each separate street frontage. If a property has frontage that exceeds three hundred (300) lineal feet on any given roadway, one (1) additional on-premise freestanding sign on such frontage shall be permitted; and for each multiple of three hundred (300) lineal feet of frontage thereafter, one (1) additional on-premise freestanding sign shall be permitted for each separate street frontage.

- B. Table 11-705(B): *Permanent, On-Premises Attached Sign Standards* lists the bulk and locational standards for permanent, on-premise attached signs. Blank cells mean that sign type is not permitted in that district, according to Table 11-703(A): *Permitted and Allowed Sign Types by District*.

Table 11-705(B): Permanent, On-Premises Attached Sign Standards									
District									
	AG	R Districts	DC	NC	GC	FC	LI	GI	PA
<i>All Permanent, On-Premises Attached Signs</i>									
<i>Wall, On-Premises Attached Sign</i>									
Maximum Height	One (1) foot from the highest roofline or the top of a parapet wall or mansard roof.								
Maximum Projection	Twelve (12) inches from the wall of the building to which it is attached.								
Number – Single Tenant	One (1) per building per frontage/tenant frontage		One (1) per building per frontage/tenant frontage						
Maximum Sign Area	Two (2) square feet per lineal foot of building frontage but no more than twenty percent (20%) of the facade		One (1) square foot per lineal foot of building frontage but no more than twenty percent (20%) of the facade	Two (2) square feet per lineal foot of building frontage but no more than twenty percent (20%) of the facade					
Number – Multi-tenant	One (1) wall sign per unit.								
Number – Secondary	Two (2) may be allowed by the Planning Director for buildings with lineal frontage in excess of seventy-five (75) feet provided design standards in Section 11-707: <i>Permanent, On-Premise Sign Design Standards</i> , are met.								
<i>Awning/Canopy, On-Premise Attached Sign [1]</i>									
Maximum Sign Area Copy	Fifty (50) percent of the face of the awning or canopy upon which the sign shall be printed or affixed								

<i>Projecting, On-Premise Attached Sign</i>					
Maximum Sign Area			Twenty-four (24) sq ft for single-tenant buildings; thirty-two (32) sq ft for multi-tenant buildings		
Maximum Height			Not above the roofline of the building to which it is affixed, or a maximum of twelve (12) feet, whichever is less		
Maximum Projection			Four (4) feet from the mean elevation of the building to which it is affixed		
Number – Single Tenant			One (1)		
Number – Multi-tenant			One (1) per ground floor unit		
Minimum Clearance			Eight (8) feet		
<i>Window, On-Premise Attached Sign</i>					
Maximum Sign Copy Area			Maximum of two (2) signs per window with a maximum coverage of sixty-five (65) percent of the total glazed area.		
Static Illuminated signs			No more than two (2) illuminated signs with a total of six (6) square feet of area may be placed in a window per frontage. The illuminated sign must be self-dimming, cannot change message, flash or blink and must be turned off at the close of business. The maximum lumens of However, one (1) illuminated sign indicating if the business is open or closed may be allowed in addition to the above.		
<i>On-site Traffic Directional Signs [2]</i>					
Maximum Sign Area	Six (6) sq ft				
Maximum Sign Height	Four (4) feet				
Number	Determined by the Planning Director as necessary to assist in the safe movement of vehicular, bicycle, and pedestrian traffic on a property and between properties with vehicular cross access.				
<i>Notes:</i>					
[1] The area of the awning/canopy sign shall count towards the maximum amount of sign copy area permitted for wall signs					
[2] Permitted on-site traffic directional sign area shall not count towards aggregate sign and sign copy area as detailed in Section 11-702					

**11-706. Permanent, On-Premise Sign Design Standards.**

**A. Changeable Copy Message Centers.**

- Generally.** Manual and electrically activated changeable copy message centers may be used in monument signs to a limited degree, pursuant to the applicable standards of this Subsection.
- Removal of Portable Changeable Copy Message Centers.** If a permanent changeable copy message center is incorporated into a new or existing sign, then all portable changeable copy message centers shall be removed from the property upon completion of the new or modified sign as a condition of the sign permit.
- Electrically Activated Changeable Copy Message Centers.** Electrically activated changeable copy

message centers may be incorporated into signage as follows:

- a. Design Requirements.
  - I. Electrically activated changeable copy message centers are only permitted on monument signs which enclose the electrically activated changeable copy message center component on all sides with a finish of brick, stone, or stucco.
  - II. Electrically activated changeable copy message center components shall make up no more than fifty (50) percent of the total sign area.
- b. Operational Requirements. Electrically activated changeable copy message centers:
  - I. Shall contain static messages only.
  - II. Shall display messages for a period of not less than thirty (30) seconds.
  - III. Shall not use transitions or frame effects between messages.
  - IV. Shall include an automatic dimmer that dims the sign at dusk or low-light conditions.

4. **Manual Changeable Copy Message Centers.** Manual changeable copy message centers may be incorporated into signage as follows:

- a. Manual changeable copy message centers are only permitted on monument signs which enclose the manual changeable copy message center component on all sides with a finish of brick, stone, or stucco.
- b. Manual changeable copy message centers, including their frames, shall make up not more than fifty (50) percent of the total sign area.

**B. ATM/Kiosk Signage**

- 1. One wall sign per frontage, provided each wall sign does not exceed ten (10) percent of the applicable exterior wall and the total shall not exceed forty (40) square feet in size.
- 2. Where a canopy is integrated into the Coffee Kiosks / Kiosks, a canopy sign may be placed on each face of the Coffee Kiosk / Kiosks, provided the overall height of the canopy and sign do not exceed twenty-four (24) inches. In addition, the overall size of all canopy signs shall not exceed forty (40) square feet.
- 3. Directional signage shall be contained on the Coffee Kiosk /Kiosk, painted within a drive lane or in any curbing defining a drive lane
- 4. Window signs limited to menu boards and daily specials shall not require a sign permit.
- 5. All signs are subject to the required permitting process of this Ordinance, unless otherwise **noted**

**C. Drive-Through Menu Boards**

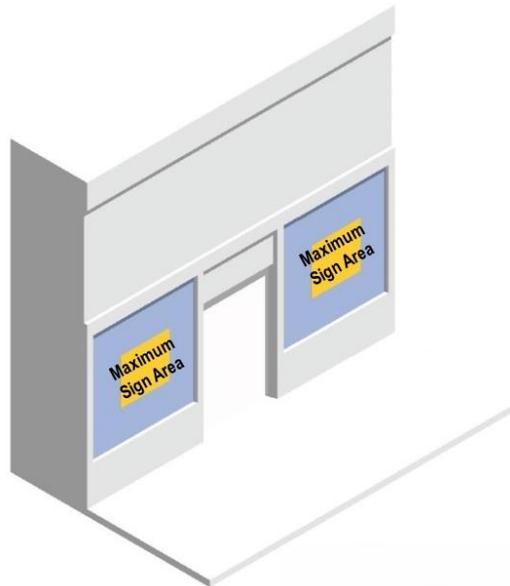
- 1. Drive-throughs shall be permitted with a maximum of four (4) total menu boards with a combined maximum area of one hundred (100) square feet.
- 2. Each menu board or pre-order board shall not exceed sixty (60) square feet in area and ten (10) feet in height. Menu boards and pre-order boards may use electrically activated changeable copy message centers for one hundred (100) percent of the permitted menu board or pre-order board area and otherwise must follow all regulations of Subsection 11-706(A)(3)(b): *Operational Requirements*.

**D. Wall Sign Design Standards.**

- 1. Secondary Wall Sign Design Standards. Permitted secondary wall signage shall be:

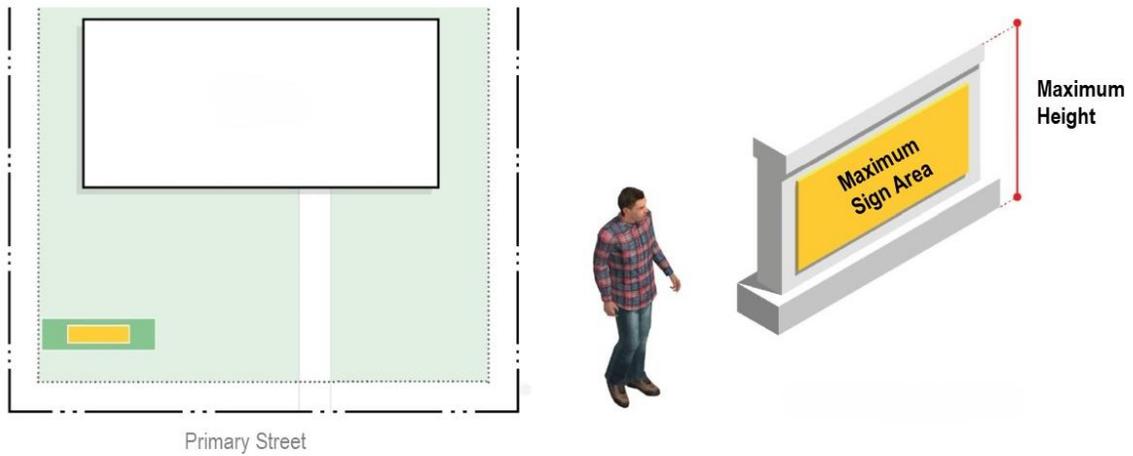
- a. In keeping with the overall design and architecture of the building.
  - b. A minimum of twenty (20) feet from the primary wall sign and other secondary wall signs.
  - c. A maximum of fifty (50) percent of the size of the primary wall sign.
  - d. The total area of all primary and secondary wall signs does not exceed the maximum wall sign copy area allowed per Table 11-706(B): *Permanent, On-Premises Attached Sign Standards*.
2. No wall sign shall cover any architectural features. Architectural features shall include but not be limited to, pediment, cornice, belt course, pier, windows, pilaster, roof, decorative stone or inlay, kick plate/bulkhead, raised or colored brick pattern, and corbel of the building to which it is affixed.
  3. No wall sign shall be affixed to HVAC screening, elevator overrun, or other features protruding from the roof of the building.

**Figure 11-706(D): Wall Sign Measurements**



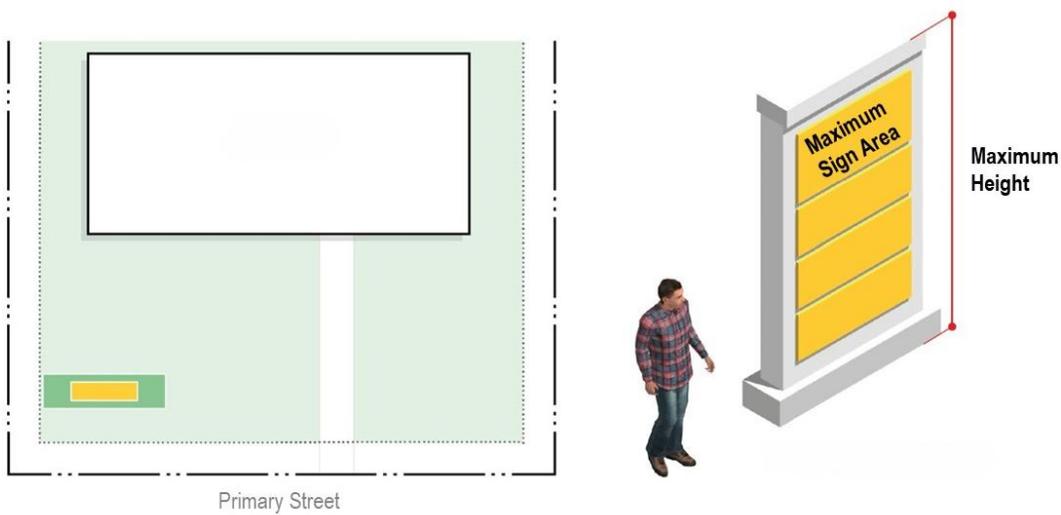
**E. Single-Tenant Monument Sign Design Standards. RESERVED**

Figure 11-706(E): Single-Tenant Monument Sign Measurements



F. Multi-Tenant Monument Sign Design Standards. RESERVED

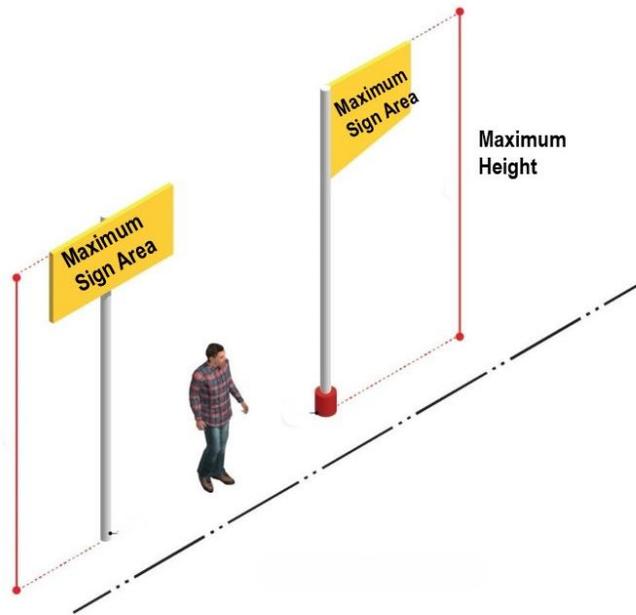
Figure 11-706(F): Multi-Tenant Monument Sign Measurements



G. Pole Sign Design Standards.

1. Footings. Pole sign footings shall either:
  - a. Be fully underground, or
  - b. Be fully enclosed by a high-quality sign base material per Table 11-705(A)(2): *Permitted Sign Materials by Tier*.

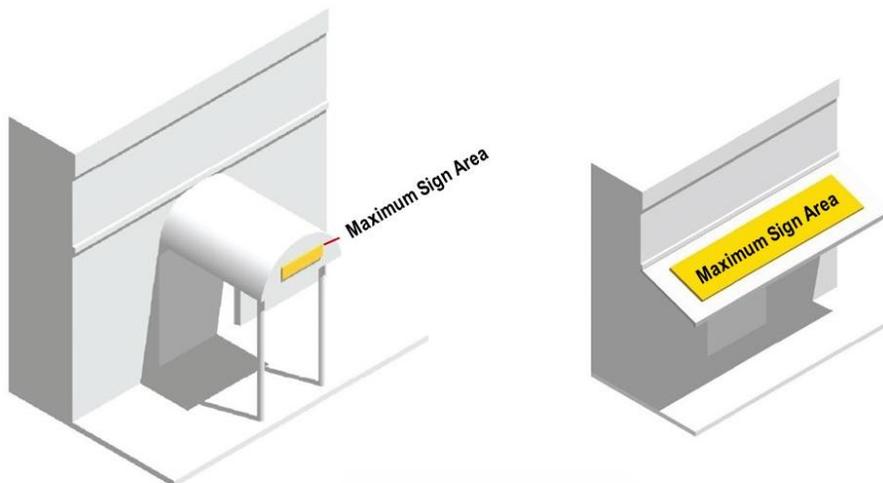
Figure 11-706(G): Pole Sign Measurements



**H. Awning/Canopy Sign Design Standards.**

1. Awning/canopy signs shall only be permitted on awnings/canopies extending above ground floor entrances, windows, or outdoor dining areas.

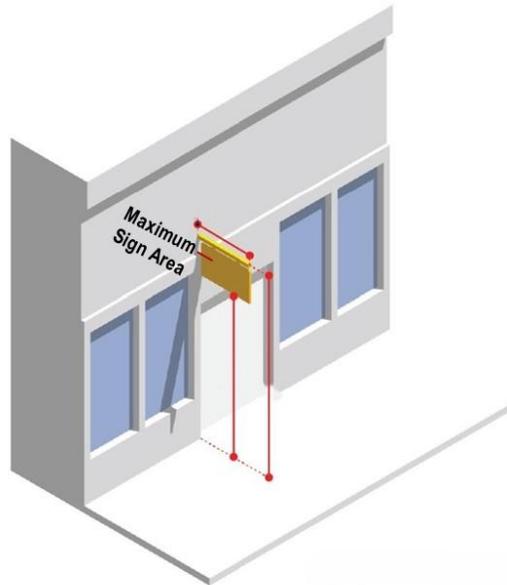
Figure 11-767(H): Awning/Canopy Sign Measurements



**I. Projecting Sign Design Standards.**

1. A projecting sign and a wall sign may be displayed on the same building frontage.
2. A projecting sign may encroach upon, extend, or project over a public right-of-way or easement. The property owner may be required to provide a release or hold harmless to the City prior to issuing permits for any such sign.

*Figure 11-706(l): Projecting Sign Measurements*



**11-707. Temporary, On-Premises Sign Standards**

A. Table 11-707(A) lists the bulk and locational standards for temporary on-premises signs. Blank cells mean that sign type is not permitted in that district, according to Table 11-703(A): *Permitted and Allowed Sign Types by District*.

Table 11-707(A): Temporary, On-Premises Sign Standards									
	District								
	AG	R Districts	DC	NC	GC	FC	LI	GI	PA
<b>All Temporary On-Premise Signs Requiring a Permit</b>									
Number – Single-Tenant Building	Two (2) concurrently								
Number – Multi-Tenant Building	One (1) per unit concurrently. No more than two (2) freestanding temporary signs concurrently.								
Display Period	Unless otherwise stated in this Table, thirty (30) days, for a total of three (3) nonconcurrent display periods per calendar year. Nonconcurrent display periods shall be separated by a minimum of thirty (30) days.								
Maximum Total Sign Area	Subject to Section 11-702, Limit on Sign and Sign Copy Area, except that nonresidential districts and construction sites during the construction of a building in residential districts, can have up to thirty-two (32) square feet, provided that only one (1) such sign may be permitted along any street frontage up to two hundred (200) feet and two (2) signs may be permitted on sites with more than two hundred and one (201) feet of frontage.								
<b>Temporary Freestanding and Attached, On-Premise Signs</b>									
Maximum total sign area per lot is subject to Section 11-702, Limit on Sign and Sign Copy Area.									
<b>Wall Mounted Banner Sign, Temporary</b>									
Maximum Sign Copy Area	Two and one-half (2.5) percent of the total area of the façade of the single-tenant building or unit of the multi-tenant building upon which the sign shall be affixed.				Five (5) percent of the total area of the façade of the single-tenant building or unit of the multi-tenant building upon which the sign shall be affixed.				
Maximum Sign Height	One (1) foot from the highest roofline or the top of a parapet wall or mansard roof.								
Projection	Affixed flat against the building to which they are mounted.								
<b>Ground Mounted Banner Sign, Temporary</b>									
Maximum Sign Area	Twenty (20) sq ft	Twenty (20) sq ft		Twenty (20) sq ft	Forty (40) sq ft	Forty (40) sq ft	Forty (40) sq ft	Forty (40) sq ft	Forty (40) sq ft
Maximum Sign Height	Five (5) feet	Five (5) feet		Five (5) feet	Eight (8) feet	Eight (8) feet	Eight (8) feet	Eight (8) feet	Eight (8) feet
<b>Window Sign, Temporary</b>									
Maximum Sign Copy Area			Twenty-five (25) percent of the individual window on the sign shall be affixed.						
<b>Feather Sign, Temporary</b>									
Maximum Sign Copy Area				Sixteen (16) sq ft					

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Maximum Sign Height			Ten (10) feet			
Separation			Twenty-five (25) feet from another feather sign			
<b>A-Frame/Sandwich Board Sign, Temporary</b>						
Maximum Sign Area		Six (6) sq ft				
Maximum Sign Height		Four (4) feet				
Number		One (1) A-frame/sandwich board sign per single-tenant building or unit of a multi-tenant building.				
Separation		Twenty-five (25) feet from another A-frame/sandwich board sign				
<b>Post Sign, Temporary</b>						
Maximum Sign Area	Six (6) sq ft		Six (6) sq ft			
Maximum Sign Height	Six (6) feet		Six (6) feet			
Number	One (1) per lot frontage		One (1) per lot frontage			
<b>Yard Sign, Temporary</b>						
Maximum Sign Copy Area	Six (6) sq ft		Six (6) sq ft			
Maximum Sign Height	Three and one-half (3.5) feet		Three and one-half (3.5) feet			
Number and Display Period	<p>Two (2) yard signs may be displayed concurrently with the exception of:</p> <ul style="list-style-type: none"> <li>Sixty (60) days before and fifteen (15) days after a local, state, or federal election in which case a maximum of four (4) yard signs may be displayed for the same duration.</li> <li>One (1) of the two (2) permitted yard signs may have a continuous display period when the lot or a building on the lot is actively for sale, rent, or lease.</li> </ul>		<p>Two (2) yard signs may be displayed concurrently with the exception of:</p> <ul style="list-style-type: none"> <li>Sixty (60) days before and fifteen (15) days after a local, state, or federal election in which case a maximum of four (4) yard signs may be displayed for the same duration.</li> <li>One (1) of the two (2) permitted yard signs may have a continuous display period when the lot or a building on the lot is actively for sale, rent, or lease.</li> </ul>			

**B. General Design Standards Temporary, On-Premises Signs.**

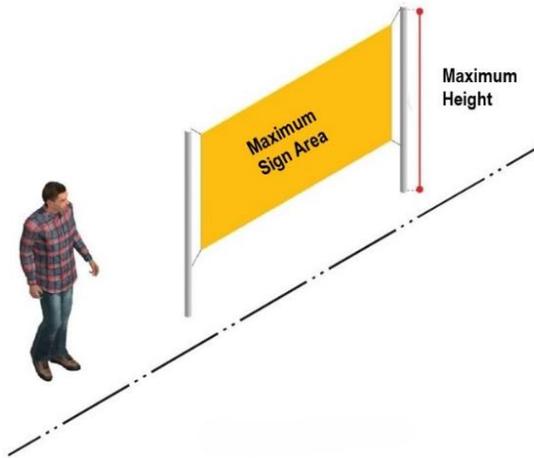
1. Temporary Freestanding On-Premises Sign Design Standards.
  - a. Temporary freestanding signs shall be securely anchored into the ground or secured in a portable base designed for such function.
  - b. Temporary freestanding signs shall be maintained in good condition and shall not sag, lie on the ground, be torn, or otherwise kept in a disorderly state.

**C. Wall Mounted Banner Sign Design Standards.**

1. Location. Wall mounted banner signs shall be affixed to a building only.

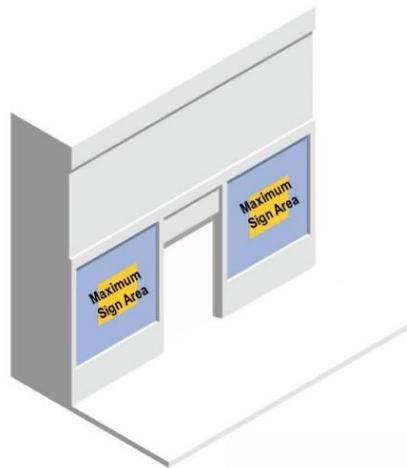
**D. Ground Mounted Banner Sign Design Standards.**

*Figure 11-707(D): Ground Mounted Banner Sign Measurements*



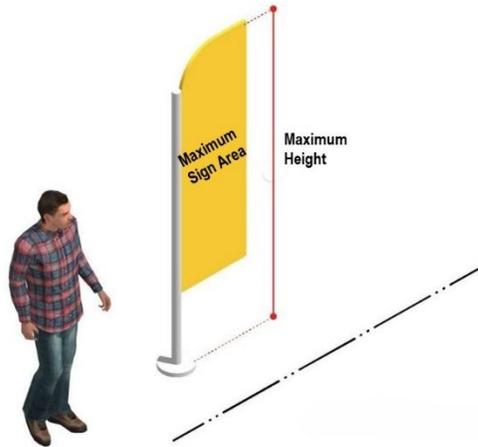
**E. Window Sign, Temporary Design Standards.**

*Figure 11-707(E): Window Sign Measurements*



**F. Feather Sign Design Standards.**

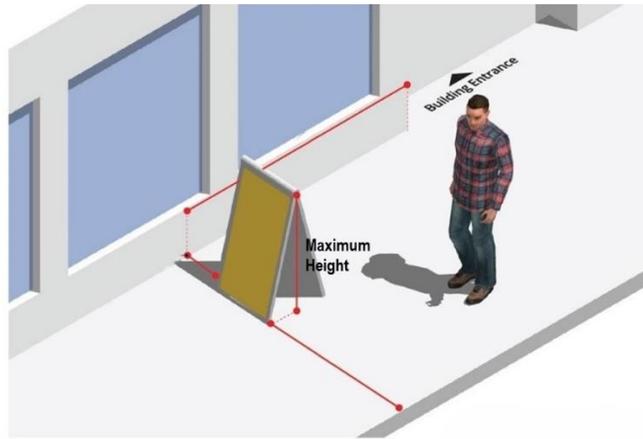
**Figure 11-707(F): Feather Sign Measurements**



**G. A-Frame/Sandwich Board Sign Design Standards.**

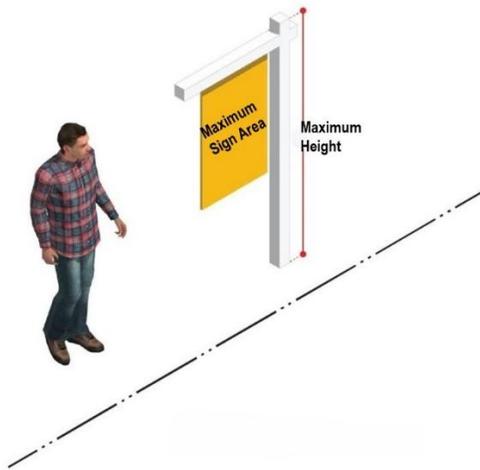
1. Location.
  - a. A-frame/sandwich board signs shall be placed in a manner to preserve a continuous sidewalk width of a minimum of five (5) feet.
  - b. No part of any A-frame/sandwich board sign shall block points of ingress or egress.
2. Other Provisions.
  - a. The display of A-frame/sandwich board signs shall only be permitted during the operating hours of the use to which the sign is associated.

**Figure 11-707(G): A-Frame/Sandwich Board Measurements**



**H. Post Sign Design Standards.**

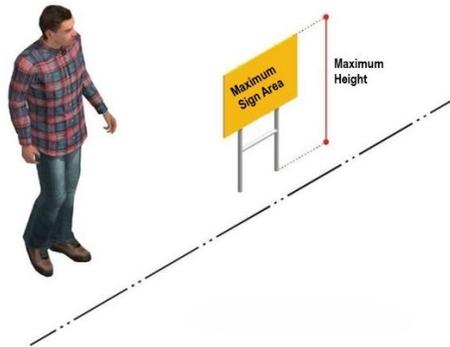
**Figure 11-707(H): Post Sign Measurements**



**I. Yard Sign Design Standards.**

1. Yard signs in residential districts displayed for a period of forty-eight (48) hours or less shall be exempt from the requirements of this Section.

**Figure 11-707(I): Yard Sign Measurements**



## 11-708. Permanent, Off-Premises Signs

### A. Educational, Governmental, and Noncommercial Place of Assembly Off-Premises Signs.

1. **Sign Area.** The maximum sign area shall be thirty-two (32) square feet.
2. **Sign Height.** The maximum sign height shall be five (5) feet.
3. **Number of Signs.** One (1) Educational, Governmental, and Noncommercial Place of Assembly Off-Premises Sign shall be permitted per allowed property.

### B. Electronic Changeable Message Off-Premises Sign.

1. **Generally.** This Subsection sets out the location and districts in which off-premises electronic changeable message (ECM) advertising signs may be permitted, and the size and height standards that apply to them. New static off-premises advertising signs shall not be permitted except as provided in this Article.
2. **Corridor.** Off-Premises ECM signs with one (1) sign face facing each direction may be permitted by Conditional Use Permit in the following areas:
  - a. The edge of the ECM off-premises advertising sign closest to the right-of-way shall be within one hundred (100) feet of the following corridors: Highway 77 south of Inglewood; the north side of the Highway 77 south by-pass; on any side of the intersection of Highway 77 and Highway 30/275; Highway 77 north of Highway 30/275; or on any side of the intersection of Highway 275 and Highway 30 (23rd Street).
    - I. Sign faces shall not be greater than fourteen (14) feet tall by forty-eight (48) feet wide.
    - II. The total height of the sign and structure shall not exceed forty-five (45) feet from the ground.
    - III. ECM off-premises advertising sign faces facing the same direction in the corridor shall be at least five thousand (5,000) feet apart.
    - IV. An existing static off-premises advertising sign within the permitted area described in above may be modified or replaced in the same general location with one (1) ECM sign face on one side and the other side may contain an equal size static face. No other new static faces would be permitted.
    - V. There shall not be more than two (2) sign-faces per pole, each facing in an opposite direction.
  - b. Off-premises ECM advertising signs with one (1) ECM sign face in each direction may be permitted by Conditional Use Permit along the 23rd Street corridor between Seaton Street and Highway 275 and along the N. Broad Street corridor north of 23rd Street under the following conditions:
    - I. The sign-face shall be a minimum of six thousand (6,000) feet from another EMC off-premises sign facing the same direction,
    - II. The permittee shall remove four (4) existing static sign faces and their support structures from within the city limits,
    - III. The maximum height of the signs along these corridors shall be thirty-five (35) feet,
    - IV. There shall not be more than two (2) ECM sign-faces per pole, each facing in an opposite direction, and

- V. The size of the sign face shall be no greater than ten (10) feet six (6) inches by thirty-six (36) feet.

### 3. Additional Standards.

- a. The underlying property shall be zoned LI, Light Industrial; GI, General Industrial; PA, Port Authority; or GC, General Commercial.
- b. ECM off-premises advertising signs shall be mounted on a monopole structure constructed of tubular steel.
- c. ECM sign faces shall be self-dimming, oriented toward the roadway, and oriented away from any residential uses.
- d. ECM off-premises signs shall meet all federal, state, and local regulations.
- e. All ECM off-premises advertising signs shall conform to the requirements of Article 3 Section 002.05D of Title 410, Nebraska Administrative Code.
- f. Signs shall not be placed within one hundred (100) feet from property that contains a residential use or is zoned for residential use.

## 11-709. Comprehensive Sign Plan

- A. **Intent.** The intent of the comprehensive sign plan is to provide an alternative procedure under which signs can be designed, constructed, and erected with innovation, imagination, and creative architecture. The objective of the comprehensive sign plan is to encourage a higher level of design and amenity than is possible to achieve under otherwise applicable sign regulations.
- B. **Applicability.** Any building or development may elect to submit a comprehensive sign plan. After the approval of a comprehensive sign plan, no permanent sign shall be erected, placed, or maintained except in conformance with the comprehensive sign plan.
- C. **Conditions.** The Planning Director may attach conditions, requirements, or standards necessary to assure that the signs covered by the comprehensive sign plan will not be materially detrimental to persons or property in the vicinity. In making its determination, the Planning Director shall not base any condition on the content of a sign.
- D. **Evaluation Criteria.**
  - 1. **Placement.** All signs shall be placed where they are visible and legible. Factors to be considered include the location of a sign relative to traffic movement and access points, site features, other structures, and orientation relative to viewing distances and viewing angles. Wall signs may be approved on building walls other than the wall of a unit of a multi-tenant building in which some units have little or no visibility from the street.
  - 2. **Quantity.** The number of signs that may be approved within any development shall be sufficient to provide necessary facilitation of internal circulation of vehicular and pedestrian traffic and wayfinding for safety of the occupants of vehicles and pedestrians. Factors to be considered shall be those that impact safety considerations such as the size of the development and the number of development sub-areas.
  - 3. **Size.** All signs shall be no larger than necessary for visibility and legibility but in no instance shall the sign area or sign height exceed the maximum established per sign type per district. Factors to be considered in determining appropriate size include topography, volume, and speed of traffic, viewing distances and angles, proximity to adjacent uses, and placement of display.
- E. **Application.** A comprehensive sign plan shall be submitted on a form established by the Planning Director. The application shall contain the following information as well as all other information required by the

Planning Director to ensure compliance with the comprehensive sign plan evaluation criteria.

1. Name, address, and telephone number of the applicant.
  2. Location of building, structure, or lot to which or upon which the comprehensive sign plan shall apply.
  3. Name of person, firm, corporation, or association developing the comprehensive sign plan.
  4. Written consent of the owner or lessee of the building, structure, or land to which the proposed comprehensive sign plan is applicable.
  5. Scale drawing of all signs included in the comprehensive sign plan indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment. Said drawings shall be drawn at a scale no smaller than one-eighth (1/8) inch equals one (1) foot and shall be prepared, signed, and sealed by a registered professional engineer when required by the Planning Director.
  6. A scale drawing indicating the location and position of all signs included in the comprehensive sign plan in relation to nearby buildings or structures. Said drawing shall be at a scale no smaller than one (1) inch equals fifty (50) feet.
- F. **Review and Action.** The Planning Director shall review the comprehensive sign plan application and approve, approve with conditions, or deny the application based on the evaluation criteria. A written decision including the findings on the evaluation criteria shall be rendered to the applicant.
- G. **Appeals.** Any applicant who receives a notice of denial from the Planning Director may, within thirty (30) days after receipt of such decision, appeal such decision to the Board of Adjustment by filing a written notice of appeal with the Planning Director with an explanation as to why said decision was not warranted according to the applicant.

## 11-710. Prohibited Signs and Content

- A. **Prohibited Signs.** The following signs are prohibited in all areas of the city:
1. Signs that are a traffic hazard because they simulate or imitate (in size, color, lettering, or design) any traffic sign or signal, or signs located in such a manner as to obstruct or otherwise interfere with a drivers view of approaching, merging or intersecting traffic.
  2. Except as provided for elsewhere in this UDC, signs encroaching upon or overhanging public right-of-way. No sign shall be attached to any utility pole, light standard, street tree, or any other public facility located within the public right- of-way.
  3. Animated or moving signs that are visible from public rights-of-way, including any moving, swinging, rotation, flashing, blinking, scintillating, fluctuating, or otherwise (except as allowed in Subsection 11-706(A): *Changeable Copy Message Centers*).
  4. Portable signs except as allowed for temporary signs.
  5. Signs attached to or placed on a vehicle or trailer parked on public or private property except for signs meeting the following conditions:
    - a. The primary purpose of such a vehicle or trailer is not the display of signs.
    - b. The signs are magnetic, decals, or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.
    - c. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business or organization to which such signs relate.

- d. Vehicles and trailers are not used primarily as static displays nor used as storage, shelter, or distribution points for commercial products or services for the public.
- 6. Signs which contain or consist of balloons (including signs which are inflatable or may otherwise be inflated), posters, pennants, ribbons, streamers, spinners, or other similarly moving devices. These devices when not part of any sign shall also be prohibited.
- 7. Off premise signs not otherwise allowed by this Article.
- 8. All other signs not expressly permitted herein.

**B. Prohibited Content.**

- 1. The following content is prohibited without reference to the viewpoint of the individual speaker:
  - a. Text or graphics of an indecent or immoral nature and harmful to minors.
  - b. Text or graphics that advertise unlawful activity.
  - c. Text or graphics that are obscene, fighting words, defamation, incitement to imminent lawless action, or true threats.
  - d. Text or graphics that present a clear and present danger due to their potential confusion with traffic control signs or signs that provide public safety information (for example, signs that use the words "Stop," "Yield," "Caution," or "Danger," or comparable words, phrases, symbols, or characters in such a manner as to imply a safety hazard that does not exist).
- 2. The narrow classifications of content that are prohibited by this Subsection are either not protected by the United States or Nebraska Constitutions or are offered limited protection that is outweighed by the substantial governmental interests in protecting the public safety and welfare. It is the intent of the City Council that each paragraph of this Subsection be individually severable in the event that a court of competent jurisdiction were to hold one or more of them to be inconsistent with the United States or Nebraska Constitutions.

**11-711. Safety, Maintenance, and Abandonment**

- A. Every sign and all parts thereof, including base, copy, framework, supports, anchors, and wiring systems shall:
  - 1. Be constructed and maintained in compliance with the applicable codes of the City.
  - 2. Be kept in proper repair.
  - 3. When not galvanized or constructed of approved corrosion resistive, noncombustible materials, be painted when necessary, to prevent corrosion, rust, peeling paint, and excessive fading.
- B. Failure of owners to keep signs maintained in good mechanical and visual repair shall be deemed a violation of this UDC.
- C. It shall be the duty and responsibility of the owner of every sign to maintain the immediate premises occupied by the sign in a clean condition, free of rubbish. Any landscaping surrounding the sign shall be kept trimmed and in good repair. If the landscaping installed at the time of sign approval dies, said landscaping shall be replaced immediately or as soon as weather permits.
- D. Every existing sign shall be subject to an inspection whenever the Planning Director and/or Building Enforcement Officer deems it necessary. In the event an inspection demonstrates that repairs, and/or maintenance is necessary, the sign owner shall be notified and required to complete said repairs and/or maintenance within thirty (30) days of notification. The Planning Director and/or Building Enforcement Officer is authorized to grant one (1) thirty (30) day extension, if, upon written request, it is deemed necessary due to extenuating circumstances.
- E. If the Planning Director and/or Building Enforcement Officer shall find that any sign is unsafe or unsecure,

or is a threat to the public safety, or was, after the adoption of this UDC constructed, erected, or maintained in violation of the provisions of this UDC, they shall give written notice to the sign owner. Such notice shall specify the manner in which the sign is unsafe or in violation of this UDC.

- F. Sign copy shall be removed and in the case of a wall sign, the building façade shall be repaired, by the sign owner when the use which the sign is associated is no longer conducted on the premises. The sign copy shall be removed within thirty (30) days of when the use ceases to operate. If the owner fails to remove the sign copy, the Planning Director shall give the owner thirty (30) days written notice to remove it. Failure to comply with the notice shall be deemed a violation of this UDC.

## Article 8. Planned Development Standards & Procedures

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### 11-801 Intent and Purpose

The purpose of the regulations, standards, and criteria contained in this Article is to provide an alternate procedure under which land can be developed or redeveloped with innovation, imagination, and creative architectural design when sufficiently justified under the provisions of this Article. The objective of the planned development process is to accommodate a higher level of design and amenity than is possible to achieve under otherwise applicable UDC regulations. The end result can be a product which fulfills the objectives of City plans and policies, including but not limited to the Comprehensive Plan, while departing from the strict application of the regulations of this UDC. The planned development is intended to permit and encourage such flexibility and to accomplish the following purposes:

- A. To promote long term planning pursuant to the Comprehensive Plan and other relevant plans and City policies.
- B. To stimulate creative approaches to the commercial, residential, and mixed-use development of land.
- C. To permit flexibility in the regulation of land development.
- D. To provide more efficient use of land.
- E. To preserve natural features and provide open space areas and recreation areas in excess of that required under this UDC.
- F. To develop new approaches to the living environment through variety in type, design and layout of buildings, transportation systems, and public facilities.
- G. To unify buildings and sites through design.

### 11-802. General Provisions

- A. The City or owners of any tract of land, at least three (3) acres in size, may apply for a planned development designation in any district.
- B. All regulations of the underlying district shall apply, except as provided herein and/or specifically modified by the City Council through the adoption of a development plan.
  - 1. Each planned development should be presented and judged on its own merits. It shall not be sufficient to base justification for approval of a planned development solely upon an already existing planned development.

- 2. The burden of providing evidence and persuasion that any planned development is necessary and desirable shall rest solely with the applicant.
- C. Signs shall conform to Article 7: *Signs*, unless modified by the City Council.
- D. All development must meet the intent and spirit of the Comprehensive Plan.

### 11-803. Planned Development Relation to Base District Standards

- A. A planned development, if approved, shall be applied as an overlay district, and all base district designations shall be maintained if not specifically modified in the planned development approval.
- B. A planned development, if approved, may allow for modifications to the standards of the base district standards. All such modifications shall be referred to as site development allowances.
- C. Notwithstanding any limitations on variations which can be approved as contained elsewhere in this UDC, site development allowances may be approved provided the applicant specifically identifies each site development allowance in the planned development application and demonstrates how each site development allowance would be compatible with surrounding development, is necessary for proper development of the site, and is aligned with a minimum of one (1) of the modification standards detailed in Section 11-804: *Modification Standards*.
- D. All approved site development allowances shall be delineated in the ordinance approving the planned development and shall be considered the standards of the Planned Development Overlay District as it applies to the subject property.
- E. The maximum residential density of a planned development shall be determined by the City Council to permit flexibility in private and public development or redevelopment. In those instances where no maximum is established, the maximum residential density shall be in accordance the lot area requirements of the underlying district.

### 11-804. Modification Standards

An applicant seeking a site development allowance shall be required to justify their request through the provision of tangible benefits to the City of Fremont by meeting a minimum of two (2) of the modification standards detailed below.

- A. **Landscape Conservation and Visual Enhancement.** The planned development preserves and enhances existing landscape, trees, and natural features such as rivers, streams, ponds, groves, and landforms.
- B. **Sustainable Design.** The planned development is designed with consideration given to various methods of site design and building location, architectural design of individual buildings, and landscaping design capable of reducing energy consumption and improving onsite storm water management beyond the base requirement through the use green infrastructure.
- C. **Public Gathering Space.** The planned development includes public gathering/park space, the amount of which is proportional to the size of buildings or number of dwelling units. The park space is activated with a playground, benches, walking paths, and/or other features. The public gathering space is activated through the use of moveable tables and chairs, a fountain or other water feature, a sculpture or other public art feature, benches, seat walls, raised landscape planters, pedestrian scale, and celebratory lighting such as string lights, and/or other features. The public gathering space is integrated into the overall design of the planned development and has a direct functional or visual relationship to the main building(s) and is not of an isolated or leftover character.
- D. **Placemaking.** The planned development has a distinctive identity and brand that is used in signs, streetscape, architecture, public gathering spaces, open spaces, etc.
- E. **Affordability.** The planned development includes residential dwellings that are deed restricted for households that make less than or equal to eighty (80) percent of the area median income as defined by the

US Department of Housing and Urban Development.

- F. **Universal Design.** The planned development includes buildings designed with accessible features such as level access from the street and/or zero entry thresholds.

### 11-805. Standards for Review

The following standards for review shall be used in the review of a planned development application as a whole, including any requested site development allowances and the modification standards proposed to justify those requests. No application for a planned development shall be approved unless the City Council finds that the application meets all of the following standards:

- A. **Plan and Policy Alignment.** The planned development is consistent with the goals, objectives, and policies set forth in the Comprehensive Plan and other adopted plans and policy documents of the City.
- B. **Public Welfare.** The planned development is designed, located, and proposed to be operated and maintained so that it will not impair an adequate supply of light and air to adjacent property and will not substantially increase the danger of fire, flood, or otherwise endanger the public health, safety, and welfare.
- C. **Compatibility with Adjacent Land Uses.** The planned development includes uses which are generally compatible and consistent with the uses of adjacent parcels. If the uses are not generally compatible, all adverse impacts have been mitigated through screening, landscaping, green infrastructure, public open space, and other buffering features that protect uses within the development and surrounding properties.
- D. **Impact on Public Facilities and Resources.** The planned development is designed so that adequate utilities, road access, storm water management, and other necessary facilities will be provided to serve it.
- E. **Archaeological, Historical or Cultural Impact.** The planned development does not substantially create an adverse impact on an archaeological, historical, or cultural resource, located on or off the parcel(s) proposed for development.

### 11-806. Procedures

- A. **Pre-Filing Conference(s).** A prospective applicant, prior to submitting a formal application for a planned development, shall meet for a pre-application conference(s) with the Planning Director and other appropriate staff. The purpose of the conference(s) is to help the applicant understand: City plans and policies, including but not limited to the Comprehensive Plan, the UDC, site development allowances, the standards by which the application will be evaluated, and the application requirements.
1. **Pre-Filing Public Meeting Encouraged (Optional).** After the pre-application conference(s), the applicant is encouraged to schedule a meeting with area residents to discuss the proposed planned development and its impact. A written summary of comments made at the meeting shall be maintained and submitted by the applicant with the application.
  2. **Determination Not Binding.** Neither the Planning Director's determination that an application is complete, nor any comment made by the Planning Director, City staff, or other agencies at a pre-filing conference or as part of the pre-application review process shall be intended or construed as a formal or informal recommendation for the approval of a planned development or component part thereof, nor shall be intended or construed as a binding decision of the City.
- B. **Development Plan Requirements.**
1. The applicant shall submit a development plan for the proposed planned development.
  2. The development plan may propose and the City Council may approve any Permitted Use, Limited Use, or Conditional Use allowed under the UDC. Notwithstanding any regulation to the contrary, a separate Conditional Use Permit is not necessary to permit any such use.
  3. The development plan may propose and the City Council may approve area, height, sign, parking, landscaping, screening, traffic access, and setback regulations for the project as a whole or for

subareas or components of the project different from those within the underlying district. In making its determination regarding approval of such proposed standards or restrictions, the City Council shall consider the character and scale of the proposed development as it relates to other uses and structures both within the district and outside the district, the character and scale of similar development within the area of the proposal, and consistency with other adopted plans or standards. The City Council may impose alternate or additional area, height, parking, landscaping, screening, traffic access, and setback regulations as necessary to protect and enhance areas within or adjacent to the planned development and to ensure compliance with the Comprehensive Plan and protect the health, safety, and general welfare.

4. The development plan shall address the site-related impact and needs of the proposed development on existing and proposed street and utility systems. The City Council may impose conditions, restrictions, or standards as appropriate to achieve the intent of this UDC and require dedication of necessary rights-of-way or easements. In making its determination regarding such conditions, restrictions, or standards, the Council shall consider the adequacy of existing or adjacent facilities, the timely provision of adequate facilities, the impact of the proposed development on existing and/or planned facilities, and the overall cost to the community.
  5. Where any portion of the total land area of a land use within the planned development is proposed to be adjacent to the perimeter of the planned development and such land use is not permitted in the adjacent district, then the development plan must address how the proposal will mitigate any negative impacts. The City Council may impose additional standards and requirements for perimeter treatment to protect adjoining properties from adverse effects, and to achieve an appropriate transition of land uses and densities.
  6. For planned developments proposed over parcels in substantially developed areas, the development plan must include appropriate standards and regulations to assure that new development or renovations are in the scale and character of the existing neighborhood and are sensitive to adjacent properties with respect to height, scale, use, and form of the surrounding neighborhood including, but not limited to, the following: land uses (including limitations on allowed uses), design standards for new construction (related to the scale and character of the surrounding neighborhood), height, parking, and setbacks, including both minimum and maximum setbacks.
  7. A Computer-Aided-Design (CAD) file representing only the planned development boundary survey and street centerlines shall be submitted that complies with the CAD Standards for Subdivision Submittals maintained by the Transportation and Utilities Department.
- C. **Deficiencies.** The Planning Director shall determine whether the application is complete.
1. If the Planning Director determines that the application is not complete, they shall notify the applicant in writing of any deficiencies and shall take no further steps to process the application until the deficiencies are remedied.
  2. If the Planning Director determines that the application is complete, they shall deliver copies of the application to other appropriate City departments or agencies for review and comment.
  3. Staff Report. A written report incorporating the comments of City staff and other agencies regarding the compliance of the proposed planned development with the requirements and standards of this Article shall be delivered to the Planning Commission prior to the public hearing.
- D. **Public Hearing, Review, and Recommendation by the Planning Commission.** The Planning Commission shall hold a public hearing on the proposed planned development, and, at the close of the public hearing and after consideration of the staff report and public comment, make a recommendation to the City Council to approve, approve with modifications, or deny the planned development based on the Standards for Review established in Section 11-805: *Standards for Review*. The Planning Director, on behalf of the Planning Commission, shall transmit a report containing its recommendation to approve, approve with modifications, or deny the application to the City Council.
- E. **Public Hearing, Review, and Action by the City Council.** The City Council shall hold a public hearing

on the proposed planned development, and, at the close of the public hearing and after consideration of the Standards for Review established in Section 11-805: *Standards for Review*, recommendation of the Planning Commission, staff report, and public comment either:

1. Refer the application back to the Planning Commission for further review, or
2. Postpone further consideration pending the submittal of additional information, including but not limited to any application requirement previously waived.
3. Hold three (3) readings of the ordinance or waive readings as the City Council may deem appropriate.
4. At the final reading of the ordinance, the City Council may:
  - a. Approve the application and adopt the planned development ordinance,
  - b. Approve the application with modifications and adopt the planned development ordinance with such modifications incorporated,
  - c. Deny the application,
  - d. Refer the application back to the Planning Commission for further review, or
  - e. Postpone further consideration pending the submittal of additional information, including but not limited to any application requirement previously waived.

**11-807. Effect of Approval or Denial**

- A. Upon approval of a planned development and adoption of a planned development ordinance by the City Council, the City Council shall direct the Planning Director to amend the zoning map to reflect the existence and boundaries of the planned development through the application of the PD-O District.
- B. Approval of a planned development application and adoption of a planned development ordinance by the City Council authorizes the applicant to proceed with any necessary applications for preliminary and final plat, building permits, certificates of occupancy, and other permits which the City may require for the planned development. The Planning Director shall review applications for these permits for compliance with the terms of the planned development ordinance approved by the City Council. No permit shall be issued for development which does not comply with the terms of the adopted planned development ordinance.
- C. Subject to Subsection F below, the adoption of a planned development ordinance by the City Council shall be null and void if the recipient does not receive approval of preliminary and final plats and file an application for a building permit relative to the planned development within one (1) year after the date of adoption of the planned development ordinance.
- D. Subject to Subsection F below, the adoption of a planned development ordinance by the City Council shall be null and void if construction has not commenced within three (3) years after the date of adoption of the planned development ordinance. The City Council must approve any requested extensions for construction beyond three (3) years.
- E. Subject to Subsection F below, the adoption of a planned development ordinance with a phasing plan by the City Council shall be null and void if construction has not commenced or is not completed in accordance with the terms of that phasing plan.
- F. An extension of the time requirements established in Subsections C-E may be granted by the City Council for good cause shown by the applicant, provided a written request is filed with the Planning Director at least four (4) weeks prior to the respective deadline.
- G. No application for a planned development which was previously denied by the City Council shall be considered by the Planning Commission or the City Council if it is resubmitted in substantially the same form and/or content within one (1) year of the date of such prior denial. The Planning Director shall review the application for a planned development and determine if the application is or is not substantially the same. An appeal of the determination of the Planning Director may be brought to the Planning Commission for consideration.

**11-808. Amendments to Adopted Planned Development Ordinances**

- A. **Determination of Level of Change.** Upon receiving a planned development ordinance amendment application, including the information required in the application, the Planning Director shall determine whether the amendment is a major amendment or a minor amendment based on the criteria detailed in Subsections B and C below.
- B. **Major Amendment.** A major amendment is any proposed change to an adopted planned development ordinance that results in one (1) or more of the following changes:
  1. Change in uses.
  2. Increase in density.
  3. Increase in building heights.
  4. Reduction of open space by more than five (5) percent.
  5. Modifications to the percent mix of housing types.
  6. Changes to parking areas in a manner that is inconsistent with this UDC.
  7. Increase in the approved gross floor area by more than five hundred (500) square feet.

8. Alterations to the alignment of roads, utilities, drainage.
  9. Any other change inconsistent with any standard or condition imposed by the City Council in approving the planned development and adopting the planned development ordinance, as determined by the Planning Director.
- C. **Minor Amendment.** A minor amendment is any proposed change to an adopted planned development ordinance that is consistent with the standards and conditions upon which the planned development application was approved, and planned development ordinance adopted, which does not alter the concept or intent of the planned development, and is not considered a major amendment as detailed in Subsection B.
- D. **Approval Processes.**
1. A major amendment to an adopted planned development ordinance shall follow the procedure set in Section 11-806: *Procedures*.
  2. A minor amendment to an approved planned development ordinance may be approved by the Planning Director.

## Article 9. Subdivision Standards and Procedures

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### 11-901. Purpose

- A. **General Scope.** This Article is to provide for the harmonious development of Fremont and its environs, to prescribe standards for the laying out of subdivisions in harmony with the Comprehensive Plan and the other applicable land development regulations of this UDC, for the coordination of streets and utilities within subdivisions with other existing or planned streets and utilities, for coordination of subdivisions with other features of the Comprehensive Plan to provide for adequate open space for traffic, recreation, light and air; and for the distribution of population and traffic in such a manner so as to create conditions favorable to health, safety, welfare, convenience or prosperity; all in accordance with applicable state statutes.

- B. **Purpose.** These regulations are designed, intended, and should be administered in a manner to:
1. Implement the Comprehensive Plan.
  2. Establish adequate and accurate records of land subdivision.
  3. Harmoniously relate the development of the various tracts of land to the existing community and facilitate the future development and connectivity of appropriate adjoining tracts.
  4. Provide adequate, safe, and efficient public utilities and improvements.
  5. Provide general community facilities and public spaces.
  6. Provide adequate facilities for public parks, schools, and other public purposes (including, but not limited to, libraries, fire stations, public buildings, and other similar facilities).
  7. Provide light, air, and other spaces for the public.
  8. Provide protection from fire, flood, and other danger.
  9. Provide proper design of storm drainage facilities and streets.
  10. Provide for the administration and regulation of resource protection areas and open spaces as might be articulated by policies in the Comprehensive Plan.
  11. Protect groundwater and surface water from contamination by storm water runoff and other sources of pollution.
  12. Reduce potential impacts of new development on street congestion by providing proper connectivity, alternative travel routes, provide a meaningful choice of alternative modes of transportation, shorten journey to work trips, or lessen overall vehicle miles traveled.

## 11-902. Application

- A. **Generally.** The provisions of this Section are intended to guide the application of the other standards of this UDC, or provide limited relief from them in specific circumstances, to encourage development design that implements the Comprehensive Plan and to enhance the overall quality of life in the City. This Section also sets out the City's interest in and requirements for covenants, conditions, and restrictions ("CCRs") that apply to new development.
- B. **Subdivision; When Required.**
1. It shall be unlawful for the owner, agent, or person having control of any land within the corporate limits of the city, or within two (2) miles of its corporate limits to subdivide land except in accordance with Neb. Rev. Stat. §§16-901-16-905 and §§19-916-19-921 (Reissue 1974) and the provisions of this Article; provided, however, that any subdivision of land caused by the acquisition of land by the federal government, the State of Nebraska, any natural resources district, any county, the City, or any village within the jurisdiction of the City, shall be deemed to be in compliance.
  2. The conveyance of portions of property that have been declared surplus by any governmental agency shall not be required to comply with the otherwise applicable requirements of this title. For purposes of this Subsection, a governmental agency shall include the federal government, the State of Nebraska, any natural resources district, any county, the City, or any village within the jurisdiction of the City. Any such surplus property so conveyed may not thereafter be separately conveyed or devoted to a separate use without complying with all otherwise applicable requirements for lots within the zoning district in which such surplus property is situated.
- C. **Subdivision and Development Design.**
1. **Generally.** The standards in Section 11-903: *General Subdivision and Development Design*, are qualitative standards for the layout of development. These standards are intended to help arrange the elements of the site that are required by this Article.

2. **Limited Exceptions.** Where the application of the standards of this Section conflict with principles elsewhere, the more restrictive standards take priority.
- D. **Covenants, Conditions, and Restrictions.** In cases where there are common areas of improvements, easements, covenants, conditions, and restrictions will be recorded to provide for their future operation and maintenance. The requirements in Section 11-918: *Covenants, Conditions, and Restrictions* ("CCRs"), are the basic requirements and the limitations of the City's review and approval of them.

### 11-903. General Subdivision Development and Design

- A. **Consistency with Public Improvements.** The proposed development shall conform to all adopted and applicable capital improvement plans of the City with regard to public infrastructure and facilities, including trails, parks, and open space.
- B. **Consistency with the Storm Water Drainage Manual.** The proposed development shall conform to all adopted and applicable standards in the most recent Storm Water Drainage Manual.
- C. **Flood Damage Prevention.**
  1. Subdivisions shall be designed in compliance with all standards set out in Section 11-406: *F-O: Floodway Overlay and Flood Fringe Overlay Districts*.
  2. Public utilities and facilities such as water, waste water, gas, electric, and storm water systems shall be located and constructed to minimize flood damage.
  3. Drainage, as approved by the City Engineer, shall be provided to reduce exposure to storm water and flood hazards.
  4. Base flood elevation data and finished floor elevation data shall be provided for all lots within a proposed preliminary and/or final plat located in an AE, AO, Approximate A, or Floodway zone.

### 11-904. Blocks

- A. **Generally.** The length, width, and shape of blocks shall be determined with regard to the following:
  1. The provision of adequate building sites suitable to the particular district and the needs of the type of use contemplated.
  2. The required lot widths, lot areas, as set out in Article 3: *Base District Specific Standards*.
  3. The need for connectivity, convenient access, circulation, control, and safety of street traffic through the minimized use of cul-de-sacs.
  4. The need to provide for mobility and accessibility for people who use alternative modes of transportation.
  5. Limitation and opportunities of soils, natural resources, and uses or features that bound the lot or tract proposed for development.
  6. Such other factors as determined or recommended by the Planning Commission and City Council.
- B. **Block Length.**
  1. **Residential Blocks.** Residential blocks shall have a maximum length of eight hundred (800) feet.
  2. **Nonresidential and Mixed-Use Blocks.** Nonresidential blocks shall have a maximum length of one thousand two hundred (1,200) feet.
- C. **Block Width.** Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depth, except on the boundaries of a proposed subdivision, or where appropriate to separate residential development from other types of

development and through traffic.

- D. **Relationship to Existing Arterial and Collector Streets.** Residential blocks shall be designed so that lots do not take access to collector or arterial streets.
1. Frontage streets may be approved, if necessary, for the efficient layout of lots on a lot or tract proposed for development, provided that:
    - a. Access to the frontage street meets the access management requirements of this UDC, and
    - b. A Landscape Transition Zone is provided between the frontage street and the abutting arterial street.

## 11-905. Lots

- A. **Generally.**
1. New lots shall be dimensioned according to the requirements of the district in which the subdivision is located per Article 3: *Base District Specific Standards*.
  2. Lots shall be of appropriate size and arrangement to provide for adequate off-street parking, loading facilities, landscaping and buffering, and other required site improvements or open space/landscaped surface areas. No lot shall be created for any use that has an area, width, or depth that is less than required to accommodate the use and all site requirements under this UDC.
- B. **Shape and Area.**
1. Side lot lines shall be at right angles to the centerlines of abutting streets, to the greatest extent possible. Alternative configurations may be approved to accomplish a public purpose, such as the preservation of natural resources or open space.
  2. Corner lots shall be of an additional width to accommodate the required street yard setback.
- C. **Access.**
1. **Single-Family, Duplex, and Rowhome Lots.** New single-family detached, duplex, and rowhome lots shall front local streets only. If a single-family detached, duplex, or rowhome lot has double frontage on a collector street, access to the lot via the collector street shall be relinquished.
  2. **Nonresidential, Mixed-Use, and Multifamily Lots.** Nonresidential, mixed-use, and multifamily lots that take access from collector or arterial streets shall provide adequate area on-site for vehicular maneuvering. Cross access between adjoining lots shall be provided as specified in Section 11-601(G)(4): *Cross Access*.
  3. **Outlots.** Outlots shall be provided with access to and frontage upon a public or private street when at all feasible. If such access is not feasible, an access easement shall be provided to allow for the maintenance of said outlot.
- D. **Depth.** Excessive lot depth in relation to lot width shall be avoided. Generally, the proportion of width to depth should be no greater than 1:3. Such proportion may be accepted or amended by the Planning Commission.
- E. **Through Lots.** Through lots for single-family detached, duplex, and/or rowhome lots shall not be allowed to take access to the rear of the lot via the abutting collector or arterial street.
- F. **Orientation to T-Intersections.** Residential lots at the terminal end of a T-intersection shall be offset from the centerline of the terminated street to mitigate the impacts of oncoming traffic on the use of the lots.
- G. **Areas of Special Flood Hazard.** Residential lots shall be platted so as to not increase or negatively impact the flood plain. Finished floor elevations meeting the requirements of the F-O District Regulations shall be included on each lot. No lots for human occupation shall be platted in the designated floodway.

## 11-906. Street Network Design

### A. Street Plans.

1. Streets shall generally conform to the adopted Long Range Transportation Plan, as amended from time to time.
2. The street system of a final plat shall conform to the approved preliminary plat.
3. Existing streets (including streets platted or contained in an approved preliminary plat in adjoining territory) shall be continued at equal or greater width and in similar alignment by streets proposed in the subdivision, unless the City Engineer finds that such design would be impractical or would create incompatibility.

### B. Access.

The developer shall install streets within the subdivision meeting the following requirements.

1. Subdivisions with internal streets shall provide no less than two (2) access points to/from existing streets unless the City Engineer finds that such design would be impractical or would create incompatibility. Multifamily developments with thirty-two (32) or more units shall provide two (2) access points. Those access points shall be located as far apart as practical and consistent with standards promulgated by the City Engineer.
2. The street layout of a subdivision shall provide access to a public or private street to all lots or tracts.
3. Street alignments within subdivisions shall use horizontal curves, islands, street offsets, intersections, or other methods that allow adequate access and promote traffic calming.
4. Streets that provide ingress and egress to a subdivision shall:
  - a. Be connected to existing public streets at locations that will not:
    - I. Create sight distance problems on the existing streets, or
    - II. Interfere with the safe operation of existing intersections.
  - b. When connected to collector or arterial streets, connecting intersections shall be designed to minimize interruption of the flow of traffic on those collector or arterial streets. At a minimum:
    - I. The dimensions of the right-of-way at the point of connection shall be approved by the City Engineer.
    - II. Deceleration lanes and other traffic control improvements shall be installed by the developer on the collector or arterial streets, as directed by the City Engineer, to ensure safe traffic operations due to the impact on the proposed development on the street.

### C. Offsite Connectivity.

1. Wherever streets have been dedicated or platted on adjacent properties for extension into or through a proposed subdivision, then those streets shall be incorporated into the street layout of the proposed subdivision.
2. Subdivision streets shall be extended to the boundaries of the lot or tract proposed for development in appropriate locations to provide for future connections to other properties.

### D. Intersections.

1. The developer shall install all intersections.
2. All lot corners adjacent to intersections shall be chamfered to provide additional space for the construction of accessible curb ramps and utilities. The chamfer shall begin seven and one-half (7.5) feet from the vertex of the lot corner adjacent to the intersection of each lot line.
3. Streets shall intersect as nearly at right angles as practicable.

### E. Cul-de-Sacs.

1. **Generally.** Cul-de-sacs shall only be permitted in instances where the Planning Commission finds that

circumstances exist which warrant their use as provided for in this UDC.

2. **Warranted Circumstances.** The following constitute circumstances which warrant the use of cul-de-sac streets:
  - a. Natural resources, such as floodplains, wetlands, or open water, make standard blocks inefficient.
  - b. The cul-de-sac street serves no more than twenty (20) lots or is no more than six hundred (600) feet in length, whichever results in a shorter street segment.
  - c. Other circumstances as determined by the Planning Commission.
3. **Dimensional Standards.**
  - a. All cul-de-sacs shall be designed to permit vehicles to turn around without backing.
  - b. Local residential cul-de-sacs shall have a minimum right-of-way radius of fifty (50) feet, a minimum outside pavement radius of thirty-seven and one-half (37.5) feet, and a minimum approach return radius of sixty-two and one half (62.5) feet. Local nonresidential cul-de-sacs shall have a minimum right-of-way radius of fifty-five (55) feet, a minimum outside pavement radius of forty-two and one-half (42.5) feet, and a minimum approach return radius of sixty-two and one-half (62.5) feet.
  - c. Cul-de-sacs shall not be used to provide multiple access points to individual buildings (e.g., single-family attached dwellings) where private driveways would conflict or involve expanses of driveway pavement that are wider than twenty-four (24) feet.

#### F. **Street Stubs.**

1. In new developments, the subdivider shall terminate streets as stubs at the outer perimeter boundaries of the development based on the criteria below. If the street in question meets at least two (2) of the criteria, then the street must be built to the appropriate standard in the City Long Range Transportation Plan:
  - a. The street intersects directly with any street designated as an arterial street and provides access to an area with an overall density of ten (10) dwelling units per acre or provides access to more than one hundred fifty (150) dwelling units.
  - b. The street by its general configuration, in relationship to the existing development of the area, serves any collector function.
  - c. The street extends into an undeveloped area in such a manner as to serve any future collector function.
  - d. The street serves as the primary access to a significant nonresidential, institutional, or recreational land as well as an access to a residential area of twenty (20) or more acres.
2. Street stubs shall be clearly demarcated and identified for future street extension by street signage.
3. All stub streets shall conform to the City's adopted version of the International Fire Code.

#### G. **Geometry (Intersections, Jogs, Offsets, and Reverse Curves).**

1. **Jogs, Offsets, and Reverse Curves.** Street jogs with centerline offsets of less than one hundred twenty-five (125) feet should be avoided.
2. **Reverse Curves.** A tangent of at least one hundred (100) feet in length shall separate reverse curves.

#### H. **Traffic Control Devices.**

1. **Installation of Street Signs.** Two (2) suitable street name signs in accordance with City standards and City requirements shall be placed by the City (at the developer's expense) at all street intersections.
2. **Traffic Safety Signage.** Traffic safety signage within subdivisions and lots or tracts proposed for development shall be installed by the City (at the developer's expense). Signage shall conform to the most current version of the Manual on Uniform Traffic Control Devices ("MUTCD"), published by the Federal Highway Administration,

as well as to any requirements of the Planning Commission and/or City Council.

3. **Traffic Signals.** If a subdivision or other proposed development will generate traffic at levels that warrant the installation of traffic signals or other traffic control devices within one thousand three hundred twenty (1,320) feet of the development, the developer shall contribute its proportional fair share toward the cost of the signal or other traffic control device.
- I. **Right-of-Way Maintenance.** Owners of property that abut a public right-of-way shall maintain the property between the edge of pavement or the inside of the curb and the owner's property line, including providing for continuing compliance with Section 11-606: *Visibility Standards*.

**11-907. Street Design and Improvement**

- A. **Right-of-Way Widths.** The minimum right-of-way widths of proposed streets shall be as detailed in Table 11-907(A): *Minimum Right-of-Way Widths*, below.

Table 11-907(A): Minimum Right-of-Way Widths	
Type of Street	Minimum Right-of-Way Width (feet)
Arterial	100
Collector	60
Local Nonresidential	60
Local Residential	52

- B. **Paving Widths.** The minimum paving widths from curb face shall be as detailed in Table 11-907(B): *Minimum Paving Widths*, below.

Table 11-907(B): Minimum Paving Widths	
Type of Street	Minimum Paving Width (feet)
Arterial	38
Collector	32
Local Nonresidential	32
Local Residential	28

- C. **Street Design Elements.**

- 1. **Sidewalks.**

- a. Sidewalks shall be installed on both sides of all streets, except for expressways.
- b. Sidewalks shall be a minimum of four (4) feet wide with a five (5) foot width section a minimum of every two hundred and fifty (250) feet with no more than a two percent (2%) grade and no more than one-quarter inch (1/4") pitch on either side to allow for a passing zone. In residential areas a five (5) foot wide sidewalk shall be constructed along the driveway with the wider portion on the house-side.

- 2. **Parkways.**

- a. Parkway shall be installed on both sides of all streets, except for expressways.
- b. Parkway shall be at least five (5) feet wide.
- c. Parkway shall be located between the back of curb and sidewalk.
- d. A complete streetlight system shall be installed in the required parkway in all subdivisions.

**11-908. Alleys**

- A. **Generally.** Private alleys may be provided for primary or secondary vehicular access to lots and uses. All alleys shall be privately owned, maintained, and placed in an outlot. Alleys may not provide access to property outside of the lot or tract proposed for development in which the alleys are dedicated.

- B. **Ownership and Maintenance of Alleys.** Alleys shall be owned and maintained by a property owners' association. Deed restrictions shall be recorded with the approved final plat for all subdivisions that include alleys. The Deed restrictions shall include at least the following, which shall be in a form acceptable to the City, and may be enforced by the City:
1. A mandatory property owners' association with lien rights to collect dues from lot or unit owners.
  2. A perpetual obligation of the property owners' association to maintain the private alleys and drainage systems.
  3. Ownership of the alleys by a single entity, such as a property owners' association, rather than under individual lot owners (or other owners).
  4. Cross-access easements for all lot owners.
  5. Easements for access by:
    - a. Emergency vehicles.
    - b. Garbage and trash collection (if designed for garbage and trash collection); and
    - c. Easements for public utilities.
- C. **Minimum Width.** The minimum width for a private alley is twenty (20) feet.
- D. **Type of Construction.** Alleys shall be constructed of concrete with a minimum depth of six (6) inches, or as otherwise determined by the City Engineer.
- E. **Alley Length.** Alleys shall extend the full length of the block being served.
- F. **Alley Intersections and Curves.**
1. Alleys should intersect streets at right angles. The intersection of a street and an alley should be constructed as a standard drive approach.
  2. A minimum curb radius of five (5) feet shall be provided at intersections.

## 11-909. Easements

- A. **Utility Easement Width and Location.** Easements shall be provided for water, wastewater, gas, electric, storm water and drainage, or other public utilities that are necessary or desirable to serve the subdivision. Their width and location shall be such that access, maintenance, repair, or reconstruction can be accomplished without undue hardship to the utility, as follows:
1. Easements on rear or side lot lines shall be provided for sanitary sewers, where necessary, and shall be a minimum of ten (10) feet wide with five (5) feet on each side of a lot line.
  2. Perpetual easements shall be granted to the City of Fremont Electrical Utility and any telecommunications entity authorized to use the city streets, to erect, operate, maintain, repair and renew poles, wires, cables, conduits, and other related facilities, and to extend thereon wires or cables for the carrying and transmission of electric current for light, heat and power and for the transmission of signals and sounds of all kinds and the reception on, over, through, under, and across a five (5) foot wide strip of land abutting all side boundary lot lines, and ten (10) foot wide strip of land abutting the rear boundary lines of all interior lots, and a fifteen (15) foot wide strip of land abutting the rear boundary lines of all exterior lots. The term "exterior lots" is herein defined as those lots forming the outer perimeter of the above described addition. Said fifteen (15) foot wide easement may be reduced to a ten (10) foot wide strip when the adjacent land is surveyed, platted and recorded with a ten (10) foot wide easement. No buildings, egress windows, structures or retaining walls shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping, and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

3. Additional easements may be required by the City for the transmission of electricity, water, gas, wastewater, or drainage.

**B. Drainage Easements.**

1. Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, there shall be provided to the City a permanent storm water easement or drainage right-of-way of such width as will be adequate for both water flow and maintenance operations, as determined by the City Engineer. No other surface improvements or fill, except trails, bank stabilization, stabilization structures, poles, and sign structures, as approved by the City, shall be placed in any such easement right-of-way.
2. To the extent practicable, existing surface drainage patterns serving any off-site properties or two (2) or more proposed lots or properties shall be placed in an easement. In addition, drainage easements shall be placed on lots to convey surface water to storm sewers located on the street or to surface drainage channels located in easements or open space as topography and grading dictate.
3. Open channel drainageways shall be placed in an outlot. The dimensions of the outlot will be determined by the City Engineer.
4. Drainage facilities shall be provided and constructed at the expense of the applicant pursuant to the Drainage Manual, as applicable.
5. Properties located in an AO flood zone shall have adequate drainage paths around structures to guide floodwaters around and away from proposed structures.

- C. Fire Protection Easements.** Fire protection access easements, where required, shall be improved as appropriate for fire protection apparatus, at a width of twenty (20) feet with a minimum turning radii of fifty (50) feet, unless a larger radii is required by the Fire Department. An unobstructed vertical clearance of at least thirteen (13) feet six (6) inches shall be provided. The property under the easement must be designed to accommodate trucks weighing at least one hundred thousand (100,000) pounds.

- D. Encroachments and Removal of Encroachments.** No permanent encroachment, structures, or trees shall be allowed to be located within the area of any easement required by this Section. While the City or utility provider benefiting from the easement will make efforts to minimize disturbances, both shall have the right to remove any encroachment, structure, fence, landscaping, or other improvements placed within such easements. The City and/or utility provider shall not be obligated to restore or replace any such encroachment. The City may assess the cost of removing an unauthorized improvement from an easement against the landowner, including the placing of a lien on the property.

- E. Maintenance of Easements.** The responsibility for the regular maintenance of the ground surface in any easement shall rest with the owner of the property within which the easement exists.

- F. Common Use Easements.** Wherever possible, the City shall require compatible utilities to share easements.

## 11-910. Drainage

- A. All subdivisions shall have a storm water management system. This system shall address routing of storm waters after they leave the subdivision, as well as the available drainage courses or storm sewers in the immediate vicinity of the subdivision. All subdivisions shall have a grading plan and drainage calculations submitted for review and approval. This plan shall address proper grading and drainage of individual lots in the subdivision and show spot and finished elevations on all lot corners.
- B. The design of the storm water management system shall be consistent with general and specific concerns and standards of the Comprehensive Plan, the Fremont Drainage Criteria Manual, and drainage control programs of other applicable public agencies. Design shall be based on environmentally sound site planning and engineering techniques.
- C. To maximum degree possible, drainage from subdivisions shall conform to natural contours of land and not disturb

pre-existing drainage ways.

- D. Adjacent properties which may be burdened with surface water from the subdivision should have the effects ameliorated as much as possible, and consideration should be given to the capacity of the streets to contain water between the sidewalks in the event of a heavy rainfall event.
- E. Design shall use the best available technology to minimize off-site runoff, encourage natural filtration, simulate natural drainage, and minimize discharge of pollutants.
- F. No surface water may be channeled into a sanitary sewer system.
- G. Where possible, a subdivisions drainage system and grading plan shall coordinate with that of surrounding properties or streets.

## 11-911. Utilities

### A. **Generally.**

1. All developments shall make provisions for water, wastewater, gas, electric, and drainage, or other public utilities that are necessary or desirable to serve the subdivision as determined by the City. All utilities and drainage shall be efficiently and unobtrusively integrated into the design and shall avoid off-site impacts.
2. All lots that will be developed for use within the City boundaries abutting on any street, alley, or right-of-way in which there is now located (or will be located) electric, gas, water, or sewer utilities, or any property that is within the City's extra-territorial jurisdiction that is within three hundred (300) feet of existing water or sewer service, shall connect to each utility upon notice by the City.

- B. **Capacity.** Where a proposed development is part of a larger tract of land, the City shall require the capacity of facilities to be adequate to serve the entire tract to the extent that the capacity is matched to that of the lines that it extends. Where the proposed development is part of a larger utility service area, the City may require the capacity of the appropriate facilities to be adequate to serve the remainder of the service area.

- C. **Potable Water Line Loops.** Potable water lines shall be looped, where possible.

- D. **Interceptors.** Where an interceptor is to be extended through the area being developed, the landowner shall provide the necessary easements.

- E. **Water, Wastewater, and Gas.** All water and sewer lines and utilities for such purposes shall be located in the right-of-way, with additional easements for the location of pumping or lift stations or the like, unless it is determined by the General Manager of the Department of Utilities, or designee that the placement is not feasible and a special exception is warranted. Where location in the right-of-way is found to be impractical or infeasible, easements for water, wastewater, and/or gas lines shall then be provided in a location determined by the General Manager of the Department of Utilities, or designee. Main lines for water, wastewater, and gas service must be run along each street in the subdivision such that service lines can be connected to each adjoining lot. Water mains shall be constructed of ductile iron.

- F. **Electrical and Telecommunication Utilities.** Electrical distribution lines, excluding transmission and key distribution lines, and telecommunications lines shall be installed underground in residential developments. All underground conduits for electrical power, telecommunication, and other similar purposes shall be located in the easement along the rear lot line, with adequate easement for installing such utilities underground, unless certified by the General Manager of the Department of Utilities or designee that the rear lot line location is impractical, or unless the General Manager of the Department of Utilities or designee finds this placement is not feasible.

### G. **Water Supply and Fire Protection.**

1. **Water Supply.** All development must be served by adequate water supply and pressure to provide fire protection according to standards promulgated by the Department of Utilities.
2. **Line Sizing and Hydrant Spacing.** The developer shall be responsible for the expense of providing water lines

and fire hydrants. Water lines shall be a minimum of six (6) inch ductile iron, or as determined by the General Manager of the Department of Utilities or designee. Fire hydrants shall be placed every three hundred (300) feet.

3. **Wastewater System.** The developer shall be responsible for installation of sewers for the subdivision from the nearest public sewer collection line available. The minimum sewer collection line size in the subdivision, shall be eight (8) inches in diameter, and the minimum size line from the subdivision to the public collection line shall be eight (8) inches in diameter or as determined by the General Manager of the Department of Utilities or designee.

#### H. **Gas and Electric Utilities.**

1. **Gas Utility.** The developer shall be responsible for the cost of installing gas for the subdivision from the nearest gas system available in accordance with a Subdivision Agreement. The Department of Utilities will evaluate requests to waive gas installation in a subdivision based on the need for system reliability and integrity.
2. **Electric Utility.** The developer shall be responsible for the cost of installing electrical connections and streetlights from the nearest electrical system available in accordance with the Subdivision Agreement. The point of service for the electric utility shall be near the property line of the premises to be served.

### 11-912. Subdivision Financing

- A. **Privately Financed Subdivisions.** For privately financed subdivisions, the subdivision agreement shall establish that improvements are financed and may provide for other areas of agreement and mutual responsibility, such as annexation, associated public and private improvements, and other terms of the project.
- B. **Sanitary Improvement Districts (SIDs).**
  1. **Subdivision Agreement Required.** No public improvements shall be constructed, no final plat shall be approved, nor shall any contract for such construction be let, awarded, or otherwise consummated by the subdivider, or any other entity, unless and until the City, the subdivider and the sanitary and improvement district have entered into a formal, executed subdivision agreement approved by the City Council. The subdivision agreement shall include, but shall not be limited to, provisions related to the identification of the requisite improvements, land acquisition for any public improvements, minimum design standards and documentation for the applicable utilities, pavements, open spaces, recreation facilities, and other public or private improvements, assessments and/or apportionments of public improvement costs to be incurred by the subdivider, the sanitary and improvement district, if applicable, a development corporation, or other entities or persons to be involved in the contract, as applicable, and any other obligations that may be necessary to identify and assign due to the specific circumstances of the site or anticipated development. For the purpose of understanding, the City shall generally consider the rules established within this Section when entering in a contractual agreement covering the assessment of costs for the public improvements.
  2. **General Obligation Professional Services Fees.** All professional service fees paid on the actual general obligation construction costs of any Sanitary Improvements District (SID) project associated with the construction and maintenance of public utility lines and conduits; emergency management warning systems, including civil defense and storm warning systems; water mains; sanitary sewers; storm sewers; flood or erosion protection systems, including dikes and levees; sidewalks and trails; streets, roads, highways, and traffic signals and signage; street lighting; power; public waterways, docks, wharfs, and related appurtenances; and parks, playgrounds, and recreational facilities; and/or landscaping and hardscaping shall be as follows:
  3. **SID Engineer(s) shall be compensated:**
    - a. **For Professional Engineering, Administration, Construction, and Coordination Services on Projects with Actual Construction Costs Greater than one hundred fifty thousand (150,000) dollars.** The SID Engineer shall be paid based on contract terms and conditions subject to prior written approval by the City Council.
    - b. **For Professional Engineering, Administration, Construction, and Coordination Services on Projects with Actual Construction Costs Less than one hundred fifty thousand (150,000) dollars.** The SID

Engineer shall be paid on the basis of the actual direct labor costs times the usual and customary overhead rate, plus fifteen (15) percent profit and reimbursable costs. In no case shall those costs paid be greater than twenty-five (25) percent of the actual general obligation construction costs of any project without prior written approval by the City Council. Any work performed without approval shall be paid for privately or specially assessed. The above services shall include, but not be limited to: the cost for all services in connection with the preliminary and final surveys, geotechnical reports, preliminary and final design, redesign, cost estimates, bid document preparation including preparation of plans and specifications, analysis and studies, recommendation of award, preparation of progress estimates, preparation of special assessments schedules and plats, certification of final completion, utility coordination, permitting (exclusive of permit fees), testing, construction or resident observation, construction staking, as-built record drawings and surveys, easement exhibits and legal descriptions and specialized sub consultants as may be necessary for the completion of the project.

- c. **Additional Service Fees.** Additional service fees may be considered by the City Council for any significant redesign work that is requested by the City but only after final construction plans and procurement documents have been approved in writing by the City Engineer.
  - d. **Fees Due.** Fees shall become due no earlier than the time services are rendered and are approved by the SID Board of Trustees. The project cost ranges in this Subsection shall be reviewed every three (3) years for adjustment considerations.
4. **SID Attorney(s) Shall be Compensated For Professional Legal Services:**
- a. **Commencement, Planning, Advertisement, Meetings, Construction, and Completion of and Levy of Special Assessments.** The SID Attorney shall be paid at a cost no greater than five (5) percent of the actual project construction costs for all services in connection with the commencement, planning, advertisement, meetings, construction, and completion of and levy of special assessments for the construction of public improvements installed within the SID. The percentage legal fee may not be charged on engineering fees, fiscal fees, testing, permit fees, or interest payments of the SID.
  - b. **Bond Issuance or Refinancing.** The SID Attorney shall be paid at a cost no greater than one-half of one (1.5) percent for bond issuance or subsequent refinancing of the SID on the gross amount of bonds issued.
  - c. **All Services in Connection with Contract Charges and Reimbursable Charges, Reimbursements or Payments to Other Agencies or Contract Services.** The SID attorney shall be paid at a cost no greater than two (2) percent of the actual project construction costs for all services in connection with contract charges and reimbursable charges, reimbursements or payments to other agencies or contract services. This shall include but is not limited to: capital facilities charges and accrued interest payments on warrants issued by the SID.
  - d. **Fees Due.** Fees shall become due no earlier than the time construction funds warrants or bonds are issued for approved expenditures by the SID Board of Trustees.
5. SID Fiscal Agent(s) shall be compensated for the placement of warrants issued by the SID in an amount not to exceed five (5) percent of warrants issued. Fees shall become due no earlier than the time construction funds warrants or bonds are issued for approved expenditures by the SID Board of Trustees.
6. All costs in excess of those described in this Subsection and those not described or those not previously negotiated and incorporated into the subdivision agreement approved by the City Council shall be considered unwarranted and shall be paid for privately or specially assessed evenly among all the assessable lots. Furthermore, interest on construction fund warrants issued prior to the compensation schedules outlined in this Subsection shall be paid for privately or specially assessed evenly among all the assessable lots.
- C. **Levy of Special Assessments.** All special assessments of any SID project shall be levied upon all lots or tracts of ground within the SID which are benefited by reason of such improvement(s). All special assessments shall be levied within eighteen (18) months after commencement of construction and within six (6) months after acceptance of the improvement by the SID's Board of Trustees or Administrator. Prior to the SID publishing notice to levy special assessments, the SID shall submit to the City the following:

1. A schedule of proposed special assessments;
2. A plat of the area and lots to be assessed; and
3. The City shall typically consider to be reasonable special assessments, subject to final approval of City Council, assessments that comply with this Article. A full and detailed statement of the entire cost of each type of improvement which shall show separately:
  - a. The amount paid to the contract.
4. The amount paid to the SID Engineer(s), which shall include a complete and itemized log of work hours, broken down by areas of service (e.g. design, observation, testing, surveying, etc.), and showing all reimbursable expenses:
  - a. The amount paid to the SID Attorney(s).
  - b. The amount paid to the SID Fiscal Agent(s).
  - c. The amount paid for penalties, forfeitures, or default charges.
  - d. A complete and itemized warrant registry detailing the warrant numbers, payee name, registration date, maturity date, interest date, interest rate, the amount paid with corresponding invoice numbers to payee, and the improvement project for which the warrants were issued.

**D. Minimum Tax Levy for SIDs.**

1. The SID shall annually levy a minimum ad valorem property tax through the year that all warrants can be paid on a cash basis and/or converted to bonded debt. The ad valorem property tax rate shall be as established by resolution of the City Council.
2. Each year following the issuance of SID bonds, the SID's fiscal agent shall deliver to the City for review and approval, an annual cash flow projection for no less than a fifteen (15) year period. The cash flow projection shall include, but is not limited to, existing and projected taxable valuation, a projected annual debt service levy, existing and projected cash receipts, cash disbursements, and available balances in the bond fund and general fund of the SID.
3. The SID's Board of Trustees shall agree to adopt tax rate levies sufficient to fund the succeeding year's general and bond fund projected obligation as required in the cash flow projections.

## 11-913. Other Required Improvements

**A. Design and Installation of Improvements.**

1. All improvements required by this UDC and other City regulations shall be designed and installed in accordance with the requirements of the City, as applicable.
2. All improvements shall be furnished, installed, and constructed by the applicant at no cost to the City, except as provided in this Section. Escrows or sureties may be required for off-site improvements that are required by this UDC.

- B. Subdivision Agreement.** The City may require that the applicant upgrade the capacity of municipal utilities, streets, traffic signals, or other infrastructure to provide adequate facilities accommodate the proposed development and future development in the area of the proposed development. To this end, the subdivision agreement shall set out the applicant's share of the improvement costs and the amount required to be deposited with the City, together with the City's share of additional costs of standard line sizes. The written agreement shall fairly apportion the cost of providing the upgraded facilities and shall be executed between the applicant and the City prior to the approval of the final plat.

- C. Inspection and Certification.** The City Engineer, or a designee, shall regularly review the construction of required improvements. Upon completion of these improvements, the City Engineer shall provide a statement to the Planning

Director that the improvements have been completed in an acceptable manner or listing the defects in these improvements. No occupancy permits shall be issued in any area which is not served by streets, water, sanitary facilities, and power unless and until all required improvements have been inspected and approved by the City Engineer, or a designee.

- D. **Affidavit of Completion.** Upon completion of the improvements, the developer/owner shall file with the City Clerk and copy the Planning Director and City Engineer an affidavit stipulating that:
1. All required improvements are complete,
  2. The improvements comply with the minimum standards specified by the City for their construction,
  3. The developer/owner knows of no defects from any cause in the improvements, and
  4. The improvements are free and clear of any encumbrances or liens.
- E. **Development Phasing.**
1. **Generally.** A lot or tract proposed for development may be developed in phases, which each phase separately platted. In such cases, the applicant shall submit a preliminary plat showing the tentative phases of development.
  2. **Conditions with Preliminary Plat.** In considering each subsequent phase shown on a preliminary plat, the Planning Commission may impose conditions that are necessary to assure the orderly development of the platted land. Such conditions may include, but are not limited to, temporary street extensions, temporary cul-de-sacs, and off-site utility extensions.

## 11-914. Dedication of Land and Improvements

- A. **Form of Certification and Dedication.** The following certifications shall be transcribed to all final plats, and shall be executed as indicated before such plats are recorded.
- B. **Dedication.**
1. The foregoing plat, known as, as described in the surveyor's certificate and embraced within this plat, have caused said land to be subdivided into lots and streets to be numbered and named as shown hereon; is made with the free consent and in accordance with the desires of the undersigned, the owner(s) and lienholders do hereby grant in perpetuity to the CITY OF FREMONT, NEBRASKA, a municipal corporation the easements shown hereon. We do hereby grant to the grantees, their successors, assigns, and their respective officers, agents, employees, and contractors, to allow entry for the purpose of construction, reconstruction, repair, operation and maintenance of wires, cables, conduits, fixtures, poles, towers, pipes, drainage channels and equipment for the distribution of electricity and gas; telephone and cable television; wastewater collectors; storm drains; storm water; water mains and all appurtenances thereto, over, upon, or under the easements as shown on the foregoing plat.
  2. The construction or location of any building or structure, excluding fences, over, upon, or under any easement shown thereon shall be prohibited.
  3. The City of Fremont, Nebraska, its successors, assigns, and permittees are hereby held harmless for the cost of replacement or damage to any improvement or vegetation over, upon, or under any easement shown thereon.
- C. **Streets and Rights-of-Way.**
1. When the proposed plat includes new public streets the following language shall be included:
    - a. The streets shown thereon are hereby dedicated to the public.
  2. When plat includes dedicating additional right-of-way the following language shall be included:

- a. The right-of-way shown thereon is hereby dedicated to the public.
3. When plat includes public access easements the following language shall be included:
  - a. The public access easement(s) shown thereon shall be used for public access and the public is hereby granted the right of such use.
4. When plat includes pedestrian way easements the following language shall be included:
  - a. The pedestrian way easement(s) shown thereon shall be used for public access and the public is hereby granted the right of such use.
5. When a plat includes both a public access easement and a pedestrian way easement the two may be combined into one statement:
  - a. The access and pedestrian way easement(s) shown thereon shall be used for public access and the public is hereby granted the right of such use.
6. When plat includes relinquishment of access the following language shall be included:
  - a. The right of direct vehicular access to \_\_\_\_\_ is hereby relinquished.
7. When plat includes private roadways the following language shall be included:
  - a. A public access easement is hereby granted over the private road(s) to the City of Fremont, Nebraska, a municipal corporation, its successors, assigns, and permittees and to the public generally for vehicular and pedestrian purposes. The construction or location of any gate, fence, or other barrier restricting vehicular and pedestrian access over the private roadway shall be prohibited except when necessary to control traffic during the construction, reconstruction, repair, or maintenance of the private roadway.
8. When plat includes common access easements the following language shall be included:
  - a. The common access easement shown hereon is for the benefit of the owners of lot \_\_\_\_\_ and lot \_\_\_\_\_ and they are hereby granted the right of such use.
9. Streets, alleys, and other rights-of-way within proposed development shall be appropriately dedicated for the purposes they are intended to serve, subject to the widths and design requirements set out in Section 11-907: *Street Design and Improvement*.
10. **Perimeter Streets; Dedication.** Where a proposed subdivision abuts an existing street or half-street that does not conform to the right-of-way standards set out in Section 11-907: *Street Design and Improvement*, the applicant shall dedicate half of the additional right-of-way width necessary to achieve the required width.

## 11-915. Mapping and Monuments

- A. **Mapping Protected Resources.** The following shall be used for mapping natural resources or other features of plans:
  1. **Streams.** Streams (perennial, intermittent, mapped, and unmapped) with identifiable banks and beds shall have their boundaries set at the top of the bank.
  2. **Watercourses.** Initial identification of the watercourses/waterbodies shall be made using the U.S. Geological Survey quadrangle maps or more accurate information, as available. Field survey verification to determine evidence and location of channelized flow is required for preliminary plats and site plans.
  3. **Vegetation.** Vegetation shall be measured by the canopy line for the determination of areas of woodlands or trees.
  4. **Wetlands.** Wetlands shall be located and measured by the criteria set out by the U.S. Army Corps of Engineers.

5. **Boundaries.**
  - a. Measurements for a boundary are to be made horizontally, perpendicular from, or radial from any feature or point.
  - b. Boundaries that are dependent on elevation shall be based upon on-site elevations and shall be interpolated.
6. **Topography.** Topographic lines shall be at one (1) foot contour intervals unless such intervals are impractical due to essentially flat topography, in which case spot elevations shall be provided on a regular grid.
7. **Soils.** If septic tanks are to be used, soils shall be delineated by on-site testing of the soils to determine soil boundaries.

**B. Monuments.**

1. **Generally.** A land surveyor registered in the State of Nebraska shall set subdivision monuments in accordance with the instructions established by the Nebraska State Surveyor's Office.
2. **Timing.** Generally, monuments shall be set before a final plat is recorded. However, in the case of new subdivisions where, in the opinion of the surveyor, it is probable the individual lot monuments will be disturbed by construction, only those monuments along the perimeter of the subdivision, or section thereof, must be set before recordation. In this situation, the setting of the individual lot monuments may be delayed until no later than:
  - a. After infrastructure construction is complete), or
  - b. Six (6) months after recordation of the subdivision plat or, if the subdivision is platted by sections or phases, after recordation of each section or phase; whichever occurs first. In new subdivisions, if monuments are to be set before recording, then the placement of monuments shall be shown on the subdivision plat. An escrow shall be established to ensure the placement of the monuments. If monuments are to be set after construction is complete, the surveyor shall record an affidavit, cross-referenced to the recorded plat, showing which monuments were set and which were found, the dates of monuments that were set or found, together with a certification that states to the best of the surveyor's knowledge and belief the information contained in the affidavit is true and correct. Nothing in this Subsection shall be construed to require the surveyor to wait until construction is completed to place monuments.

## 11-916. Subdivision Names

- A. Subdivision Names.** The following standards shall apply to naming of subdivisions.
1. New plat names are required for platting previously un-platted land, or when a preliminary plat is required.
  2. Plat names shall be substantially different from another plat name in Dodge County, nor can the same or similarly pronounced words be used.
  3. Plat names shall not use Roman Numerals.
  4. Plat names shall not begin with or include initials.
  5. Plat names shall not begin with a number.
  6. Plat names shall not begin with an article (the, a, an), a conjunction, a preposition, and shall not use hyphens or other non-alphabetic characters.
  7. Plat names shall not include a cardinal direction.
  8. Plat names shall not begin with or include a street address.
  9. Lot and block shall not be used as a subdivision name.

10. No name abbreviations shall be used.
11. Plat names that can cause confusion shall be avoided.
12. Plat names are subject to final discretion and approval by the City of Fremont.
13. Final plat names and subsequent additions shall be based on the name of the approved preliminary plat (where required) and reference the name of the preliminary plat in the subtitle.
14. When the property being platted has previously been platted (for example; lot consolidation or lot splits) the new plat shall be named a "Replat". It shall be titled with the subtitle containing the description of the lots contained in the plat.
15. Replats shall be numbered in succession of the replats in the addition from which they are being re-platted. The City should be consulted for the next number in the sequence.
16. The number of the addition and the number of the replat shall be depicted in numeric form, not spelled out.
17. Lot numbers shall be consecutive numbers beginning with 1. The area of lots shall be shown in square feet and acres. Lots will not be numbered 1R, 2R or 1A, 1B, 1C.
18. Outlots shall be alphabetically named starting with the letter A. The purpose and function of each outlot shall be described on the plat. The area of lots shall be shown in square feet and acres.
19. Block numbers will not be used in new subdivisions.

#### B. Street Names.

1. **Verification.**
  - a. Proposed street names shall be checked by the applicant to ensure that names of existing or planned streets within the City and within the two-mile extra-territorial area are not duplicated.
  - b. No street names shall be approved which will duplicate or be confused with names of existing streets in the City or within the two-mile extra-territorial area unless the new street is an extension of, or in alignment with an existing street.
2. **Naming Conventions.** Streets shall be named according to the following conventions:
  - a. Streets that extend existing streets shall be assigned the same name as the existing street.
  - b. Streets that are on the same alignment as an existing street shall be given the same name as the existing street.
  - c. No street shall use the same name as an existing street, modified by the term street, avenue, road, court, etc. Only where a single cul-de-sac or loop street comes off a street may the words place, lane, court, or terrace be used.
3. **Approval of Street Names.** The City Council shall approve street names concurrently with the approval of the plat.

### 11-917. Classification of Subdivisions

- A. **Generally.** The purpose of the subdivision classification system set out in this Section is to provide for different procedures depending upon the scale and impacts of the proposed subdivision, including:
  - B. **Administrative Subdivision.** Administrative subdivisions shall be approved in a manner as provided in Section 11-919: *Administrative Subdivision Procedures*. An administrative subdivision shall be a subdivision that meets the following criteria:
    1. The subdivision results in no more than four (4) lots.

2. All resulting lots front upon and take access an existing street.
  3. The subdivision does not require the creation of any new street, easement or right-of-way.
  4. All lots that will be developed for use within the City boundaries or that are within three hundred (300) of existing municipal facilities (water, wastewater, gas, electric, storm water, etc.) shall connect to City facilities.
- C. **Standard Subdivision.** A standard subdivision shall be a subdivision that does not meet the criteria for an administrative subdivision.
- D. **Subdivision Requirement.** No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit, or similar permit be issued, for any development or land division that is required to be processed as set out Section 11-919: *Administrative Subdivision Procedures*, through Section 11-920: *Standard Subdivision Procedures*, inclusive, until a final plat has been approved by the City and recorded with the Dodge County Register of Deeds.

## 11-918. Covenants, Conditions, and Restrictions

### A. Property Owners' Association.

1. **Generally.** Any subdivision or development for which compliance with the standards of this UDC, or with conditions of approval, require a continuing maintenance obligation (e.g., to own and maintain common open space) shall be subject to a mandatory property owners' association and a recorded declaration of covenants, conditions, and restrictions that ensures such continuing compliance.
2. **Incorporation of Property Owners' Association.** If required by this UDC, or required as a condition of approval, the applicant shall incorporate a property owners' association that will bear responsibility for ensuring continuing compliance with these regulations and conditions of approval.

### B. Covenants, Conditions, and Restrictions (CCRs).

1. **Generally.** Conditions and requirements of development approval that require ongoing efforts of tenants or successors in title shall be included in a declaration of covenants, conditions, and restrictions for the property that shall be recorded in the public records in the chain of title for the property at the applicant's expense.
2. **Limited Waiver.** Developments that are approved under unified ownership and control are not required to have covenants, conditions, and restrictions, provided that a single property owner is responsible for the ongoing compliance of the lot or tract proposed for development with the requirements of this UDC and any conditions of approval. However, a development that is approved under unified ownership and control shall not be conveyed into multiple ownerships (e.g., individual buildings in an office park being sold to separate entities) until CCRs are recorded.
3. **Timing.** The applicant shall provide proposed covenants, conditions, and restrictions to the City:
  - a. Upon filing an application for plat approval; or
  - b. If no plat approval is sought, before the issuance of any permit that directly authorizes development (development approvals that require covenants, conditions, or restrictions shall be contingent upon approval of the covenants, conditions, and restrictions document).
4. **Plat Annotations.** Where a plat is required, the CCRs shall be referenced on the plat.

- C. **Conversion From Unified Control to Multiple Ownerships.** A development that is approved under unified ownership and control shall not be conveyed into multiple ownerships (e.g., individual buildings in an office park or individual units of a rowhome development being sold to separate entities) until the required CCRs are recorded.

### D. Limited Review of CCRs.

1. **Generally.** The City shall approve only those covenants, conditions, and restrictions that relate to the development approval, and its right of enforcement shall extend only to those matters and matters that

substantially bear upon them. The City will not seek to intervene in purely private disputes about covenants, conditions, and restrictions. The City Attorney shall review the incorporation documents and CCRs to ensure that the following provisions are included in a form that is acceptable to the City Attorney:

- a. All items that are required by this UDC or conditions of approval, which may include specific rights of enforcement being granted to the City;
  - b. Membership in the property owners' association shall be mandatory for all owners of property in the subdivision or condominium;
  - c. Dues are payable to the property owners' association at regular intervals;
  - d. The property owners' association has lien rights with respect to unpaid dues;
  - e. The property owners' association has a perpetual existence;
  - f. The property owners' association has all responsibilities required by these regulations or conditions of approval (e.g., ownership and maintenance of common elements); and
  - g. The property owners' association has the capacity to sue and be sued.
2. **Optional Elements.** The CCRs may include any provisions considered desirable by the applicant with respect to the management and maintenance of the subdivision or condominium, without required approval by the City Council, provided that they do not undermine any requirements of the UDC or any of the following requirements:
- a. Required membership in, and payment of dues to, the property owners' association.
  - b. Inclusion and enforcement of all of the provisions required by these regulations and any conditions of approval, in a form acceptable to the City Attorney.
  - c. Clauses that provide for enforceability by the City of those covenants, conditions, and restrictions that relate to this UDC or conditions of approval.
  - d. Applicable requirements of this UDC at the time of approval of the CCR document.

## 11-919. Administrative Subdivision Procedures

- A. **Standards of Review.** The following standards shall be used in the review and action of the Planning Director on administrative subdivision applications.
  1. The administrative subdivision conforms to the adopted plans and policies of the City of Fremont; and
  2. The administrative subdivision complies with the applicable requirements of this UDC and the Fremont Municipal Code.
- B. **Application Submittal.**
  1. An application for an administrative subdivision, including all components detailed below shall be submitted to the Planning Director.
    - a. Complete Application form and associated fees.
    - b. Four (4) copies of the proposed plat, a .pdf and an AutoCad file drawn to a standard engineering scale showing: a north arrow; the proposed layout of the lots with the dimensions and area of the lots; all existing easements; streets; dedication statements; notarized signatures of property owners and lienholders; signature line for the Planning Director; notarized signature and consent of all lienholders; name of proposed plat; lot numbers; legal description; metes and bounds description; and, surveyor's certificate.
    - c. A survey of existing conditions, dimensions, buildings, and setbacks from the buildings to proposed property lines and between buildings.

- d. A title certificate stating all owners and lienholders of the property.
2. Upon receipt of the application, the Planning Director shall review the application to determine that all required information has been submitted and notify the applicant of completeness or deficiencies.
3. Failure to cure the deficiencies within six (6) months from notification of such deficiencies shall be deemed abandonment of the application without further notice from the City.

**C. Planning Director Review and Action.**

1. Upon determination of completeness, the application shall be reviewed by the Planning Director to ensure the application conforms to the requirements of this UDC. Based upon their review, the Planning Director shall approve or deny the administrative subdivision based on the standards of review established in Subsection A. Upon approval the subdivision shall be filed with the Register of Deeds. Failure to file the subdivision with the Register of Deeds within three (3) months of approval will render the subdivision null and void.
2. If denied, the Planning Director shall report the deficiencies to the applicant. The applicant shall have six (6) months from the date of notification of the deficiencies to correct the deficiencies, otherwise, the administrative subdivision will be considered abandoned without further notice from the City.

## 11-920. Standard Subdivision Procedures

- A. **Standards of Review.** The following standards shall be used in the review and action on standard subdivision applications.
  1. The standard subdivision conforms to the adopted plans and policies of the City of Fremont; and
  2. The subdivision complies with the applicable requirements of this UDC and is consistent with the approved preliminary plat.
- B. **Pre-Application Conference.** The applicant for a standard subdivision shall meet with the Planning Director and other appropriate staff prior to the submittal of a preliminary plat application. The purpose of the pre-application conference is to review access, availability of water, sewer, storm water, and other utilities; traffic impact; conformity to the Comprehensive Plan, and all requirements of the UDC.
  1. The applicant shall provide plans and data in sketch form showing their ideas and intentions in the platting of the proposed preliminary plat. The sketch plan and information shall include:
    - a. A proposed layout of streets, lots and other features in relation to existing streets, utilities, topography, and other conditions.
    - b. A general location map showing the proposed subdivision and its relationship to existing abutting subdivisions and community facilities in the area, such as streets, alleys, schools, parks, commercial areas, and other data supplementing the plans which outline or describe all of the proposed development as it relates to existing conditions.
    - c. The developer's timing expectation in terms of when the preliminary and final plats would be submitted.
    - d. The project's timeline for development initiation, phasing, and buildout.
- C. **Preliminary Plat.**
  1. **Preliminary Plat Submittal.** Following the pre-application conference on the proposed subdivision, as provided in Subsection B, the subdivider may prepare and submit a preliminary plat to the Planning Department. A preliminary plat together with an application form and receipt for the platting fee, will be accepted for processing when all required information listed in Subsections (2)(a) through (q) below, and any other necessary supplementary information required by this Article, is provided.
  2. Two (2) hard copies and a .pdf copy of the preliminary plat, that is drawn to a standard engineer's scale shall contain or be supplemented by the following information:

- a. A legal description of the property on the application form and electronically in Word format.
- b. Proposed lot and street layout with dimensions and area.
- c. The number of proposed single-family detached, single-family attached or multifamily dwelling units, and/or square feet of commercial/industrial space.
- d. The proposed phasing for development and infrastructure improvements.
- e. The overall proposal for water services and planned improvements and sizing of the infrastructure.
- f. The planned connection point to the City sewer system and sizing of infrastructure.
- g. The proposed connections to gas and electric services.
- h. Proposed location, size, and type of easements.
- i. The size and condition of the adjacent roads.
- j. The amount of right-of-way that is needed and how much the developer dedicating.
- k. The type of off-site improvements proposed and/or needed, such as turn lanes, traffic signals, signage, striping, and streetlights.
- l. Traffic Impact Study, if required by the City Engineer, shall be provided to determine the need for off-site improvements.
- m. Proposed waivers to subdivision requirements.
- n. The location of the City limits.
- o. Associated annexation petitions, zoning requests or other applications, if required.
- p. Description of conformity to the Comprehensive Plan.
  - I. Are the proposed uses in conformance with the Comprehensive Plan.
  - II. Is a Comprehensive Plan amendment needed or appropriate.
- q. Plat Identification.
  - I. Proposed name of the subdivision, which shall not duplicate previously filed plat names.
  - II. Location of boundary lines in relation to land monuments, including a legal description of the property.
  - III. Names and addresses of the developer and engineer, and the surveyor or land planner preparing the plat.
  - IV. North point (which shall be directed to the top or right side of the plat), scale, and date.
  - V. A small-scale key or vicinity map oriented to the plat and adequately covering the area within a one-half (½) mile radius of the subdivision, showing the relation of the plat to major streets, parks, and schools.
- r. **Existing Conditions.** Two (2) hard copies and a .pdf shall be provided containing the following information:
  - I. Location, size, and identity of existing platted streets within the proposed subdivision and within two hundred fifty (250) feet thereof; other public or private ways; special purpose, railroad, or utility rights-of-way or easements; parks and other open spaces within the proposed subdivision; permanent buildings within the subdivision and within fifty (50) feet thereof; and permanent buildings in the projected alignment of streets outside the proposed subdivision within two hundred fifty (250) feet of the proposed subdivision.
  - II. All existing storm sewers, culverts, and other underground installations within the proposed

subdivision or immediately adjacent thereto, and the location of the nearest available public utilities.

- III. Existing contours at no greater than one-half (1/2) foot intervals to portray existing grades, referred to city datum or USGS.
- IV. The locations of watercourses, wetlands, bridges, wooded areas, and such other topographic features as may be pertinent to the subdivision.

**s. Proposed Improvements.**

- I. The location and width of proposed pedestrian access routes, easements, and rights-of-way for streets, roadways, private ways, courts, and alleys.
- II. The general location, size, and character of proposed sanitary sewer facilities and storm drainage, including sanitary and storm drainage computations when required by the City Engineer and/or the General Manager of the Department of Utilities or designee.
- III. Description of proposed utility systems (gas, water, electricity), with a statement of estimated cost compiled from an engineer's computation and consultation with the public utility having jurisdiction.
- IV. Layout, numbers, and approximate dimensions of lots.
- V. Location and size of any proposed school sites, parks, or other public lands to be considered for sale or dedication to public use. In those cases when schools, parks, or public lands are specifically identified in the Comprehensive Plan, consideration may be given to such proposed uses in the proposed plat.
- VI. Two (2) hard copies and a pdf of tentative center line profiles showing the existing public and/or private street grades and proposed approximate grades of all public and private streets.
- VII. Two (2) hard copies and a pdf of the proposed grading plan, including provisions for erosion and sediment control, with contours at not greater than one-half (1/2) foot intervals.
- VIII. Two (2) hard copies and a pdf copy of a proposed post-construction storm water management plan, with a proposed implementation schedule or sequence of phased construction.
- IX. Two (2) copies of a drainage study prepared as specified in the Fremont Drainage Criteria Manual.

**t. Supplemental Information.**

- I. A traffic impact analysis may be required at the discretion of the City Engineer. It shall be prepared by a licensed professional engineer experienced in transportation engineering and shall conform to the guidelines on file in the traffic engineering office.
- II. If the project is to be phased, proposed improvements for all phases shall be shown along with cost estimates for external improvements broken out by phase. Any internal improvements that will require City participation or reimbursement from the City to the Developer should include cost estimates for the reimbursable amount.
- III. Sanitary and Improvement Districts (SID) shall provide financial data showing the source and use of funds to cover the cost of public and private improvements, including a tentative schedule for the expenditure of funds. This will be used for determining cost feasibility of the proposed SID.
- IV. Private subdivisions shall provide a proposed cost share and estimated cost of external improvements and required oversized utilities, including a tentative schedule for the expenditure of funds.
- V. One (1) copy of proposed covenants, if a property owners' association or other property owner's association is to be formed, for the control and maintenance of common facilities or land, including the operation and maintenance of post-construction storm water best management practices.
- VI. A statement of any proposed exceptions to the language of the standard form subdivision or development agreement.

- VII. Should wetlands potentially be located on the site, a wetlands determination and analysis may be required by the City Engineer.
3. The Planning Department will transmit copies of the preliminary plat for review and comment to the Public Works Department, Department of Utilities and such other departments, official body, company, or agency as may be required.
  4. The preliminary plat, with the Planning Director's recommendation and the recommendations of the departments reviewing the plat will be submitted to the Planning Commission for its consideration.
  5. The Planning Commission shall review the proposed preliminary plat and shall make their recommendation to the City Council. The Planning Commission may recommend that the preliminary plat be approved; approved with conditions or denied. Such recommendation may include conditions or recommendations to provide improvements to minimize the impacts of the plat, to waive provisions of this chapter. If the Planning Commission recommends that conditions be placed on their approval to cure deficiencies prior to being forwarded to the City Council, such deficiencies shall be resolved within six (6) months from the date of Planning Commission recommendation, or the preliminary plat shall be deemed abandoned without further notice from the City.
  6. **City Council Action.** The City Council shall consider the Planning Commission's recommendation, Planning Director report, and the standards of review established in Subsection A and shall:
    - a. Approve the preliminary plat,
    - b. Approve the preliminary plat with conditions,
    - c. Deny the preliminary plat, or
    - d. Refer the preliminary plat application back to the Planning Commission for further consideration.
  7. **Concurrent Approval.** For some subdivisions, the preliminary and final plats may be submitted and considered by the Planning Commission and City Council simultaneously. In which case, all submittal materials, subdivision improvement plans, and approval criteria for preliminary plats and final plats must be met for approval.
  8. **Expiration and Lapse of Approval.** The applicant shall have five (5) years from the date of preliminary plat approval to submit an application for final plat approval. If an application for final plat approval has not been submitted the preliminary plat shall become void after five (5) years without the submittal of a final plat for a subsequent phase. The City Council may consider a request for an extension of the time period to file a final plat provided that the request is in writing, shows good cause and is filed within four (4) weeks prior to the respective expiration.
- D. **Subdivision Improvement Plans.**
1. **Plan Submittal.**
    - a. After preliminary plat approval and prior to final plat application submittal, subdivision improvement plans shall be prepared by or under the supervision of a professional engineer licensed in the State of Nebraska.
    - b. Two (2) hard copies and one (1) pdf of the subdivision improvement plans shall be submitted to the Planning Director and reviewed prior to scheduling the plat on the Planning Commission agenda. The improvement plans shall include detailed drawings for streets, utilities, storm sewer, sidewalks (if necessary), grading, drainage study, and all other required improvements.
    - c. Upon receipt of the plans, the City Engineer shall review the plans to determine that all required information has been submitted. The City Engineer shall notify in writing the Planning Director and the applicant of completeness or deficiencies.
    - d. Failure to cure the deficiencies within six (6) months from notification of such deficiencies shall be deemed abandonment of the application without further notice from the City.
    - e. Upon approval of satisfactory improvement plans, the Planning Director shall schedule the plat on the

Planning Commission agenda for a recommendation to the City Council.

- f. Construction of the improvements shall be initiated within thirty-six (36) months of final plat approval. The Planning Director may file a nullification of the final plat with the Register of Deeds if the construction of the improvements has not been initiated. An extension of the time requirements may be requested in writing and granted by the Planning Director for good cause shown by the applicant, provided a written request is filed with the City at least four (4) weeks prior to the respective expiration.
- E. **SID General Obligation Debt Criteria.** Prior to the submittal of the final plat for property within a SID, the following criteria shall be met:
1. The general obligation debt of any Sanitary Improvement District ("SID") shall not exceed four (4) percent of the proposed valuation of the project.
  2. The applicant shall submit, as part of the final plat application, an estimate of the projected value of the SID, along with a letter from the fiscal agent of the SID stating that they have reviewed and agree with such projection.
  3. If the bids for any improvement of the SID exceed the original source and use of funds submittal by more than ten (10) percent upon approval of the final plat, the change shall be considered "substantial" and the project shall be directed back to the City Council for consideration and approval of such excess along with submission of an amended source and use of funds.
  4. Any new and/or unanticipated construction costs of the SID which were not included in the original source and use of funds submittal shall be directed back to the City Council for consideration and approval of such new and/or unanticipated construction costs along with submission of an amended source and use of funds.
  5. If the actual construction costs of an improvement of the SID are less than the approved source and use of funds, those savings shall not be considered expendable funds to be applied for other SID projects without written authorization of the City Council. Project cost saving shall be distributed proportionally between special assessment and general obligation debt, as applicable, based on the originally approved apportionment.
  6. Any development plan which includes distinct construction phases may seek the City Council's approval of the overall development plan and planned construction phases. The anticipated overall and phased construction costs shall be included in the original source and use of funds submittal. Following completion of the initial phase of construction and before proceeding with any subsequent phase of development, the fiscal agent of the SID shall submit an amended source and use of funds to the City Council for consideration and approval, specially noting changes in labor and material costs, as compared to the original source and use of funds submittal, if any.
- F. **Final Plat.**
1. **Final Plat Submittal.**
    - a. After approval of the preliminary plat and subdivision improvement plans, the applicant may have a final plat prepared by a registered land surveyor and a registered engineer.
    - b. The Planning Director shall review the application for the final plat to determine that all required information has been submitted and notify the applicant of completeness or deficiencies.
    - c. Failure to cure the deficiencies within six (6) months from notification of such deficiencies shall be deemed abandonment of the application without further notice from the City unless the applicant has requested and the Planning Director has approved a revised schedule to cure the deficiencies.
  2. **Planning Director Report.**
    - a. Upon the determination of completeness, the application shall be reviewed by the Planning Director and other appropriate departments.
    - b. The Planning Director shall prepare and issue a report to the applicant identifying issues of concern to be addressed as well as a recommendation for approval, approval with conditions, or denial.

- c. The Planning Director shall forward their report to the applicant and the Planning Commission.
- 3. **Planning Commission Review and Recommendation.** The Planning Commission shall consider the Planning Director report and make a recommendation to the City Council to approve, approve with conditions, or deny the final plat. The Planning Director on behalf of the Planning Commission shall transmit a report containing its recommendation to approve, approve with conditions, or deny the final plat to the City Council along with a Subdivision Agreement specified in Section 11-921: *Subdivision Agreement*. If the final plat conforms to the approved preliminary plan, it shall be recommended for approval.
- 4. **City Council Action.** The City Council shall consider the Planning Commission's recommendation, Planning Director report, and the Subdivision Agreement and shall:
  - a. Approve the final plat and Subdivision Agreement,
  - b. Approve the final plat with conditions,
  - c. Deny the final plat, or
  - d. Refer the final plat back to the Planning Commission for further consideration.

## 11-921. Subdivision Agreement

### A. Subdivision Agreement Submittal.

- 1. A draft subdivision agreement, including all infrastructure improvements, shall be submitted to the Planning Director along with an application for a final plat. The subdivision agreement shall specify all elements and amenities required by this UDC that the developer shall pay for including paving, storm water improvements, water, wastewater, gas, external improvements, and all street design improvements required per Section 11-907: *Street Design and Improvement*. The agreement shall specify that any applicable property owners' association expenses shall also be paid for.
- 2. Upon receipt of the improvement agreement, the Planning Director shall review the agreement to determine that all required information has been submitted and notify the applicant of completeness or deficiencies. An application for a final plat for any subdivision will not be considered by the City Council until the terms of the subdivision agreement have been reviewed and approved by the Planning Director and the City Attorney.

### B. Securities.

- 1. **Performance.** Whenever the City permits an applicant to enter into a subdivision agreement, it may require the applicant to provide sufficient security to cover the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the City, a performance bond or letter of credit or other security acceptable to the City Council and the City Attorney, as security for the promises contained in the improvement agreement. Security shall be in an amount equal to one hundred (100) percent of the estimated cost of completion of the required public improvements and lot improvements. The issuer of any surety bond and letter of credit shall be subject to the approval of the City Administrator, Finance Director and the City Attorney.
- 2. **Maintenance.** Upon acceptance of the subdivision improvements by the City, the subdivider may be required to provide security in the amount as required by the City Engineer to guarantee the improvements against any defective work or labor done or defective materials used in the performance of the improvements throughout the warranty period which shall be the period of two (2) years following completion and shall not be less than ten (10) percent of the cost of the construction of the improvements.
- 3. **Bonds.** If the City Council authorizes the applicant to post a performance bond as security for its promises contained in the improvement agreement, or a maintenance bond for the guarantees of any labor or materials, the bond shall comply with the following requirements:
  - a. All bonds must be in the forms acceptable to the City Attorney.

- b. All bonds must be executed by such sureties as are named in the current list of “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies”, as published in Circular 570, as may be amended, by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury.
  - c. All bonds must be signed by an agent, and must be accompanied by a certified copy of the authority for them to act.
  - d. All bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the state of Nebraska to issue performance bonds for the limits and coverage required.
  - e. If the surety on any bond furnished by the applicant is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the State of Nebraska, or the surety ceases to meet the requirements listed in Circular 570, the developer shall, within thirty (30) days thereafter, substitute another bond and surety, both of which must be acceptable to the City.
4. **Letter of Credit.** If the City Council authorizes the applicant to post a letter of credit as security for its promises contained in the improvement agreement, or for the guarantees of any labor or materials, the letter of credit shall:
- a. Be irrevocable,
  - b. Be for a term sufficient to cover the completion, maintenance and warranty periods, but in no event less than two (2) years, and
  - c. Require only that the City present the issuer with a sight draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds under the letter of credit.
- C. **Construction and Inspection.** The construction methods and materials for all improvements shall conform to standard engineering practices and all other standard plans and specifications of the City. Construction shall not commence until all required improvement plans have been approved by the City Engineer, and all improvements are subject to inspection by the City Engineer or their duly authorized personnel in accordance with the City's approved specifications.
- D. **Acceptance of Improvements.**
- 1. When all improvement deficiencies have been corrected and as-built improvement plans submitted, the completed subdivision improvements shall be considered by the City Engineer for acceptance. Acceptance of the improvements shall imply only that the improvements have been completed satisfactory and that public improvements have been accepted for public use.
  - 2. When requested by the subdivider in writing, the City Engineer may consider acceptance of a portion of the improvements. Such improvements will be accepted by the City Engineer only if the City Engineer finds that it is in the public's interest to do so and such improvements are for the use of the general public. Acceptance of a portion of the improvements shall not relieve the subdivider from any other requirements imposed by this Article.

## Article 10. Zoning Procedures

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### 11-1001. General Application Requirements

**A. Authorization.**

1. An application for any UDC procedure, except for amendments, may be filed only by the owner or lessee of the property, or by an agent or contract purchaser specifically authorized by the owner to file such application.
2. An application for an amendment may be filed by an owner, lessee, agent or contract purchaser of property located in the City or by City Council, Planning Commission, or the Planning Director.

**B. Filing.**

1. An application for any UDC procedure shall be filed with the Planning Director.
2. The application shall be on forms provided by the City and shall be filed in such number as the instructions provide.
3. All plans shall be at a scale sufficient to permit a clear and precise understanding of the proposal.
4. The application shall include all information, plans, and data, specified in the application requirements manual.

**C. Completeness.**

1. The Planning Director shall determine whether the application is complete.
2. If the application is not complete, the Planning Director shall notify the applicant of any deficiencies and shall not process the application until the deficiencies are remedied.
3. Once the Planning Director has determined that the application is complete, the application shall be reviewed by the Planning Director and appropriate departments. The Planning Director shall notify the applicant of any revisions that are necessary prior to scheduling the item for consideration at the

appropriate meeting.

4. The Planning Director may waive certain submittal requirements in order to tailor the requirements to the information necessary to review a particular application.

**D. Fees.**

1. Every application shall be accompanied by the required filing fee(s) as established and modified, from time to time, by the City Council.
2. Applications will not be processed until the filing fee(s) has been paid.
3. No fees shall be waived, and no fees shall be refunded except those authorized by the City Council.

- E. Withdrawal of Application.** An applicant shall have the right to withdraw an application at any time prior to the decision on the application by a City official, commission, or board. Such withdrawal shall be in writing.

**F. Successive Applications.**

1. An application that is substantially similar to a prior application shall not be reviewed or heard within one (1) year of the date of denial unless there is substantial new evidence available or if a significant mistake of law or of fact affected the prior denial.
2. Such subsequent application shall include a detailed statement of the grounds justifying its consideration.
3. The Planning Director shall make a determination as to whether the subsequent application is substantially the same as the original application.
4. If the Planning Director finds that there are no grounds for consideration of the subsequent application, they shall notify the applicant in writing.

## 11-1002. Zoning Procedures Responsibilities

- A. Purpose.** The purpose of this article is to set out the development review bodies that are responsible for the administration of this UDC. This Section describes the roles and responsibilities and general rules of procedure of the City Council, Planning Commission, Board of Adjustment, and City staff with respect to the administration of this UDC.

**B. Applicability.**

1. **City Council.** No part of this UDC restricts or limits any other powers that are granted to the City Council by federal law, state statute, or the Fremont Municipal Code.
2. **Other Administrative Bodies.** The provisions of this Section that relate to other bodies are representative of the authority that the City Council has delegated to them with respect to application and enforcement of this UDC.
3. **No Implied Limitation.** The provisions of this Section shall not be a limitation regarding the conduct of councils, commissions, and boards where additional responsibilities or authority are set out elsewhere in this UDC, the Fremont Municipal Code, or through policies adopted by the City Council, or by a commission or board as approved by the City Council.

**C. Planning Commission.**

1. **Generally.** There shall be a Planning Commission, the membership, terms of office, and rights and duties shall be in accordance with Nebraska Revised Statutes § 19-926, and the Fremont Municipal Code Chapter 2, as amended from time to time. This Section is adopted pursuant to these statutory and municipal authorizations. Consequently, amendment of the state statute or municipal code after the effective date may modify, delete, or supplement the provisions of this Subsection.
2. **Structure.** The Planning Commission shall consist of nine (9) members with one (1) member residing in

the City's extra-territorial zoning jurisdiction. The members shall be appointed by the Mayor with the approval of a majority vote of the members of the City Council.

3. **Function.** The Planning Commission shall undertake a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the area within its jurisdiction. The plans and programs must be designed to promote public health, safety, morals, convenience, prosperity, or the general welfare, as well as the efficiency and economy of its area of jurisdiction. The Planning Commission shall also adopt rules for the transaction of its business and shall keep a record of its resolutions, transactions, findings, and determinations, which records shall be a public record.
  - a. The Planning Commission shall elect its chairperson from its members and create and fill such other of its offices as it may determine. The term of the chairperson shall be one (1) year, and they shall be eligible for reelection.
  - b. The Planning Commission shall hold at least one (1) regular meeting in each calendar quarter. However, the chairperson may cancel a quarterly meeting, but no more than three (3) quarterly meetings may be canceled per calendar year.
4. **Powers and Duties.** The Planning Commission shall have the following powers:
  - a. Make and adopt plans for the physical development of the city, including any areas outside its boundaries which in the Commission's judgment bear relation to the planning of such city, including a Comprehensive Plan,
  - b. Prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested municipal departments,
  - c. Consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the Comprehensive Plan and its implemental programs. The Commission may delegate authority to any such group to conduct studies and make surveys for the Commission, make preliminary reports on its findings, and hold public hearings before submitting its final reports.
5. The Planning Commission may, with the consent of the City Council, in its own name:
  - a. Make and enter into contracts with public or private bodies,
  - b. Receive contributions, bequests, gifts, or grant funds from public or private sources,
  - c. Expend the funds appropriated to it by the City,
  - d. Employ agents and employees, and
  - e. Acquire, hold, and dispose of property.
6. The Planning Commission may on its own authority make arrangements consistent with its program, conduct or sponsor special studies or planning work for any public body or appropriate agency, receive grants, remuneration, or reimbursement for such studies or work, and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.
7. The Planning Commission may grant Conditional Uses or special exceptions to property owners for the use of their property.
  - a. The granting of a Conditional Use or a special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in this UDC as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building permit is authorized.
  - b. A member of the public may appeal the action of the Planning Commission for a public hearing and review by the City Council, provided that such appeal is made in writing and is submitted to the

Planning Director within thirty (30) days of the Planning Commission action.

**D. City Council.**

1. **Generally.** The City Council has all powers conferred upon it by the Fremont Municipal Code, and the laws of the State of Nebraska. With respect to decision-making pursuant to this UDC, in addition to the authorized acts of the Fremont Municipal Code, the City Council will exercise the powers set out in this Subsection.
2. **Approvals.** The City Council shall not take action on the following matters until it has received the recommendation of the Planning Commission:
  - a. The Comprehensive Plan,
  - b. The City's Capital Improvements Program (CIP),
  - c. Building Codes,
  - d. Subdivision development,
    - I. A recommendation from the Planning Commission and action by the City Council shall not be required for administrative subdivisions, or subdivision or consolidation of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way or easements is involved, and such subdivision complies with the requirements concerning minimum areas and dimensions of such lots and blocks. The Planning Director is hereby authorized to approve such subdivisions.
  - e. Annexation of territory,
  - f. Zoning map, text amendments, and Conditional Use Permits,
  - g. Other policies or procedures to facilitate implementation of planning elements, or
  - h. Any other action not delegated to any other board or commission as the City Council may deem desirable and necessary to implement the provisions of this UDC and the goals and objectives of the City, provided such action is not contrary to the requirements of the Fremont Municipal Code or state law.
3. The City Council shall set a reasonable time within which the recommendation from the Planning Commission is to be received.
4. **Appeals.** The City Council shall hear and decide appeals from decisions of a board or commission after a public hearing. An appeal of a decision by the City Council shall be made to the district court.
  - a. **Referral of Matters to the Planning Commission; Reports.** The City Council may refer any matters or class of matters to the Planning Commission, with the provision that final action on it may not be taken until the Planning Commission has submitted a report on it or has had a reasonable period of time, as determined by the City Council, to submit a report.
  - b. **Authority.**
    - I. In general, the Planning Commission has the powers as may be necessary to enable it to perform its functions and promote the planning of its jurisdiction.
    - II. The Planning Commission and its members, in the performance of its functions, may enter upon any land with consent of the property owner.

**E. Board of Adjustment.**

1. **Generally.** There shall be a Board of Adjustment (Board), the membership, terms of office, and rights and duties of which shall be in accordance with NRS § 19-907 to 19-912, as amended from time to time. The Board shall be established to provide relief in situations of hardship or to hear appeals as provided in this Subsection.

2. **Structure.** The Board of Adjustment shall consist of five (5) regular members, plus one (1) 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.
  - a. Each member shall be appointed for a term of three (3) years and removable for cause by the appointing authority upon written charges after public hearings.
  - b. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
  - c. One (1) member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in their immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment.
  - d. One (1) member of the Board of Adjustment shall reside in the extra-territorial zoning jurisdiction of the City.
  
3. **Function.** The Board of Adjustment shall adopt rules in accordance with the provisions of the UDC and the Comprehensive Plan.
  - a. Meetings shall be held at the call of the chairperson and at other such times as the Board may determine.
  - b. Such chairperson, or in their absence the acting chairperson, may administer oaths and compel the attendance of witnesses.
  - c. All meetings of the Board of Adjustment shall be open to the public.
  - d. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and keep records of its examinations and other official actions, all of which shall be filed in the office of the Board and shall be a public record.
  
4. **Powers and Duties.** The Board shall hear and decide upon:
  - a. **Appeals.** To hear and decide appeals where it is alleged there is error in any order, requirement, decisions, or determination made by an administrative official or agency, in the enforcement of any zoning regulations or regulations relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made under NRS § 19-929,
  - b. **Interpretations.** To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map, and
  - c. **Variations.** To authorize, upon appeal, variances so as to relieve difficulties or hardship from the strict application of these regulations where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the UDC; or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning regulation.
    - I. **Findings by Board.** No such variance shall be authorized by the Board of Adjustment unless it finds that:
      - i. The strict application of the zoning regulation would produce undue hardship,
      - ii. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity,
      - iii. 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

- iv. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

d. **Actions.** The Board of Adjustment may:

- I. Reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from.
- II. May make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
- III. The concurring vote of three (3) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to affect any variation.

5. **Appeals.** Any person(s), or any board, taxpayer, officer, department, board, or bureau of the City aggrieved by any decision of the Board may seek review of such decision by the district court for the county in the manner provided by the laws of the state and particularly by NRS § 19-912, R.R.S. 1943 (Reissue 1991), and any amendments thereto.

6. **Interpretations.**

- a. **Generally.** It is the intent of this UDC that all questions of interpretation and enforcement shall be first presented to the Planning Director and that such questions shall be presented to the Board only on appeal from the decision of the Planning Director and that recourse from the decision of the Board shall be to the courts as provided by law.
- b. **Requests for Interpretation.** Any person may request an administrative interpretation of the terms, provisions, or requirements of this UDC from the Board of Adjustment if the application of the terms, provisions, or requirements is not obvious.
- c. **Applicability.** This Subsection applies to any request to interpret a provision of this UDC.
  - I. It is the intent of the City Council that this UDC be accessible and clear to the residents, business owners, and landowners in the city.
  - II. It is not the intent of the City Council that the Planning Director affirmatively evaluates the full development potential of individual properties or resolve other such detailed inquiries about specific properties or issues without a pending application.
  - III. Within these guidelines, the Planning Director is authorized to waive the application fee for specific inquiries that do not involve material time commitments or copying costs, and to charge an hourly research fee for broad inquiries that are likely to involve material time commitments. Such fee shall be according to a fee schedule promulgated by City Council resolution.
- d. **Process.** The interpretation is made by the official charged with administering the provision for which an interpretation is requested. The responsible official and the City are not obligated to render an interpretation. After an interpretation is issued, the Planning Director may propose a text amendment to this UDC to codify the interpretation.
- e. **Application Requirements.**
  - I. Applications for interpretations shall be submitted on a form approved by the Planning Director.

- II. The applicant shall cite the code provisions for which interpretation is sought, a description of a hypothetical situation or scenario to which the application of this UDC is in question, and a statement of the nature of the interpretation sought.
- f. **Decision.** Within thirty (30) days after the application for an interpretation is filed, the responsible official shall make a good faith effort to interpret the provision that is the subject of the application. The responsible official shall respond to the applicant in writing and shall keep a copy of the response in a record of interpretations. The responsible official may consult with the Planning Director in drafting the interpretation.
- g. **Standards for Interpretations. The interpretation shall be based on:**
  - I. The materials or scenario posed by the applicant,
  - II. The plain and ordinary meaning of the terms that are subject to the application for an interpretation as set out in Webster's Third New International Dictionary or other current and authoritative dictionaries,
  - III. The purpose statement for the UDC section that is subject to interpretation,
  - IV. Any other provision of the Comprehensive Plan, the Fremont Municipal Code, state law, or federal law that are related to the same subject matter,
  - V. Any technical meanings of the words used in the provision subject to interpretation,
  - VI. Other interpretations rendered by the City relating to the same or related provisions of this UDC,
  - VII. The consequences of the interpretation,
  - VIII. The legislative history,
  - IX. The problem or issue that is addressed by the provision subject to interpretation, and
  - X. Sources outside the UDC provisions that provide a related source for the definition, such as technical or professional literature.
- h. **No Legal Advice.** The City does not provide legal advice to applicants or property owners. Private parties, including purchasers, lenders, title insurers, and others are advised to seek legal opinions from their attorneys with respect to specific potential applications of this UDC. No interpretation provided by City staff pursuant to this Subsection shall be construed as legal advice.
- i. **No Binding Effect.** It is the policy of the City to evaluate applications for development approval comprehensively on their individual merits. Therefore, interpretation may be persuasive to the applicable development review bodies, but they are not binding on the City.
- j. **Record of Action.** The Planning Director shall keep records of interpretations made pursuant to this Subsection.

### 11-1003. Administrative Review and Action Procedures

- A. **Generally.** Administrative permits are those that are issued by the Planning Director, without the requirement for a public meeting or hearing.
- B. **Administrative Permits Established.** The administrative permits required by this UDC are set out in this Section. Other development permits may be required by state or federal law, applicable building codes, or the Fremont Municipal Code.
- C. **Certificate of Zoning Compliance.**
  - 1. **Generally.** Zoning Compliance is an administrative procedure in which the Planning Director verifies

that an application for development approval of a permitted use, or a building or structure that is permitted without site plan approval, complies with the requirements of this UDC. A Certificate of Zoning Compliance may be issued simultaneously with building permits or other required permits.

2. **Planning Director Action.** The Planning Director shall either:

- a. Approve, or
- b. Deny the application.

D. **Limited Use Permit.**

1. **Purpose.** To provide flexibility and to help diversify uses within a district, specified uses are permitted in certain districts subject to the granting of a Limited Use Permit. Because of their unusual or special characteristics, Limited Uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process set forth in this Section is intended to assure compatibility and harmonious development between Limited Uses, surrounding properties, and the City at large.

2. **Procedures.**

a. **Pre-Application Conference.** The applicant for a Limited Use permit is advised to meet with the Planning Director prior to submitting an application to discuss the submittal requirements, review criteria, and review process.

b. **Action by the Planning Director**

I. Upon receipt of a completed application, the Planning Director will review the materials to ensure the application conforms to the criteria in Subsection c. and d. below. Based upon their review, the Planning Director shall approve, approve with conditions, advance the application to a Conditional Use, or deny the application.

II. If denied, the Planning Director shall report the deficiencies to the applicant. The applicant shall have six (6) weeks from the date of notification of the deficiencies to correct the deficiencies, otherwise, the Limited Use Permit application will be considered abandoned without further notice from the City.

c. **Limited Use Permit Review Criteria.** Limited Uses are permitted within the district where designated when they comply with specific conditions and limitations as set forth in this UDC. The scope and operations of any Limited Use may be limited or qualified by the conditions of the subject property. A listed Limited Use that cannot meet the specific conditions and limitations set forth in this UDC shall not be allowed under a Limited Use permit.

d. **General Criteria.** The Limited Use permit shall be approved upon a finding by the Planning Director that the following general criteria have been met, to the extent they may be applicable:

- I. The proposed use will conform with or further the goals, objectives, and strategies of the City's Comprehensive Plan and other adopted plans,
- II. The site, building(s), and use meet all criteria specified for the use and all applicable regulations and development standards as specified in this UDC and for the district in which the use is located. However, nonconforming sites and/or buildings must be brought into conformance if required to do so pursuant to Article 11: *Nonconformities*,
- III. The proposed use will not substantially alter the basic character of the district in which it is located, or jeopardize the development or redevelopment potential of property within the district,
- IV. The proposed use will not have a significant adverse impact on the adjacent

uses or properties, or result in hazardous conditions for pedestrians or vehicles within or close the site,

- V. The proposed use will be adequately served with public utilities, services, and facilities and not impose an undue burden above and beyond those of the Permitted Uses of the district in which it is located, and
- VI. Potential negative impacts of the Limited Use on the surrounding properties have been or may be mitigated through specific setbacks, architecture, screen walls, landscaping, site arrangement, or other methods required in the permit as conditions and/or limitations of permit approval. The applicant shall satisfactorily address each of the following impacts:
  - i. Traffic,
  - ii. Activity levels,
  - iii. Light,
  - iv. Noise,
  - v. Odor,
  - vi. Building type, style and scale,
  - vii. Hours of operation,
  - viii. Dust, and
  - ix. Storm water management, drainage, and erosion control.
- VII. **Use-Specific Standards.** In addition to the general criteria for review of a Limited Use Permit listed above, certain uses, due to their unique characteristics, must also comply with the special provisions specific to those uses contained in Article 5: *Use Specific Standards*, of this UDC.
- VIII. **Expiration.** A limited use permit application and/or approval shall become void one (1) year after the date of approval, unless the applicant receives a building permit and diligently carries out development prior to the expiration of this period.

#### E. Temporary Use Permit.

- 1. **Generally.** Administrative approval of temporary use permits are applicable to public and commercial events, neighborhood events, and construction, storage, and refuse collection uses as set out in Section 11-516: *Temporary Use Specific Standards*.
- 2. **Approval Criteria.** Temporary use permits shall be administratively approved if it is demonstrated that they meet the applicable substantive requirements of this UDC, including the use-specific standards for temporary uses in Section 11-516: *Temporary Use Specific Standards*.
- 3. **Planning Director Action.** The Planning Director shall:
  - a. Approve,
  - b. Approve with conditions, or
  - c. Deny the application.

#### F. Right-of-Way Encroachment.

- 1. **Generally.** Encroachments into the public right-of-way are permitted subject to the standards set out in Section 11-303: *Permitted Encroachments of Required Yards*.
- 2. **Approval Criteria.** Right-of-way encroachments may be approved by the Public Works Director if it

is demonstrated that they meet the substantive requirements of this UDC.

3. **Procedure.** Applications for right-of-way encroachments are processed according to the sequential steps set out by the City Public Works Department and shall be referred to other departments and agencies, as applicable, and then decided by the Director of Public Works in coordination with the Planning Director.
  4. **Public Works Director Action.** The Public Works Director shall either:
    - a. Approve, or
    - b. Deny the application.
- G. Minor Changes to a Planned Development, Preliminary Plat, or Final Plat.**
1. **Generally.** The Planning Director is authorized to approve minor changes or modifications to a Planned Development, Preliminary Plat, or Final Plat in accordance with this Subsection.
  2. **Minor Modifications Defined.** The Planning Director is delegated the authority to approve an application to change or modify a Planned Development, Preliminary Plat, or Final Plat if it is demonstrated that the proposed change or modification will result in substantial adherence to the previous approval. In making this determination, the Planning Director may refer any application for change or modification to the Planning Commission for review and recommendation. The minor changes or modifications must demonstrate the following:
    - a. Development density and intensity have not materially changed, in that:
      - I. The number of buildings is not increased by more than ten (10) percent.
      - II. The height of the building(s) is the same or less.
      - III. The number of dwelling units is the same or fewer.
      - IV. The aggregate Impervious Coverage is the same or less.
    - b. Design has not materially changed, in that:
      - I. The roadway patterns, including ingress-egress points, are in the same general location as shown on the original plans, and are no closer to the rear or interior side property lines than shown on the original plans.
      - II. The parking area is in the same general location and configuration.
      - III. The building setbacks are the same or greater distance from property lines, except that the building setbacks for detached single-family detached, duplex, or rowhome development, may be decreased, provided that such decrease is limited such that the resulting setback distance will be greater than either:
        - i. The district regulation, or
        - ii. Any condition or restrictive covenant regulating the setback for which a substantial compliance determination is sought.
      - IV. The landscaped open space is in the same general location, is the same or greater amount, and is configured in a manner that does not diminish a previously intended buffering effect.
      - V. The proposed perimeter walls and/or fences are in the same general location and of a comparable type and design as previously approved.
      - VI. Elevations and renderings of buildings have substantially similar materials and architectural expressions as those shown on the approved plans.

- VII. Recreational facilities either remain the same or are converted from one recreational use to another.
    - c. The proposed changes do not have the effect of creating any noncompliance or nonconformity with the strict application of the UDC that were not previously approved at a public hearing, or of expanding the scope of existing variances or other approvals such that they would differ to a greater degree from the strict application of the UDC.
  - 3. **Major Modifications Defined.** In reaching a determination as to whether a change is minor and may be approved by the Planning Director or a major change or modification requiring a Planning Commission recommendation and City Council approval, the Planning Director shall use the following to determine a major modification:
    - a. Any increase in intensity or use shall constitute a major change. An increase in intensity of use shall be considered an increase in usable floor area, an increase in the number of dwelling or lodging units, or an increase in the amount of outside land area devoted to sales, displays, or demonstrations.
    - b. Any change greater than ten (10) percent in parking areas resulting in an increase or reduction in the number of spaces approved.
    - c. Structural alteration significantly affecting the basic size, form, style, and location of a building, as shown on the approved plan.
    - d. Any reduction in the amount of open space or transition yard, or any change in the location or characteristics of open space.
    - e. Any change in use from one use group to another.
    - f. Any change in pedestrian or vehicular access or circulation shall constitute a major change.
  - 4. **Planning Director Action.** The Planning Director shall either:
    - a. Approve,
    - b. Approve with conditions, or
    - c. Deny the application.
  - 5. **Planning Commission Referral.** The Planning Director shall refer the application to the Planning Commission if the Planning Director finds that the proposed development entails a major change or modification in the Planned Development, Preliminary, or Final Plan.
  - 6. **Expiration.** An application or approval for a modification shall become void one (1) year after the date of approval, unless the applicant files a final plat and diligently carries out development prior to the expiration of this period.
- H. **Site Plan Review.**
- 1. **Generally.** Site plans require approval by the Planning Director for site development features and to possibly mitigate unfavorable effects on surrounding property.
  - 2. **Administration.** The Planning Director shall review, evaluate, and approve, approve with conditions, or deny site plan applications. An applicant may appeal the denial of a site plan application in accordance with Subsection 11-1002(E)(4)(a): *Appeals*.
  - 3. **Uses Requiring Site Plan Review.** All new development, redevelopment, additions, alterations, or changes in occupancy are subject to site plan review.
  - 4. **Standards.** Site plans shall meet the following criteria. The plan shall:
    - a. Be consistent with the standards of this UDC.

- b. Minimize impacts on the reasonable development expectations or the use and enjoyment of adjacent land or the public interest, consistent with the applicable standards of this UDC.
- c. Not materially and adversely affect the public health or safety through interpretations of the standards of this UDC that do not give full effect to other provisions that would be protective to health and safety if applied.
- d. Recognize the limits of existing and planned infrastructure, by thorough examination of the availability and capacity of water, wastewater, gas, electric, drainage, and transportation systems to serve present and future land uses.
- e. Provide for compatibility between the proposed development, surrounding land uses (existing or planned), and the natural environment.
- f. Provide for efficient and adequate provision of public services and solid waste removal.
- g. Protect public health and safety against natural and human-made hazards which include, but are not limited to, traffic noise, water pollution, and flooding.
- h. Provide for accessibility within the proposed development and appropriate connectivity or buffering or both between the development and existing adjacent uses.
- i. Minimize disruptions to existing physiographic features, including vegetation, streams, lakes, soil types, and other relevant topographical elements.

**5. Term and Modification of Approval.**

- a. **Expiration.** An approved site plan approval shall become void one (1) year after the date of approval, unless the applicant receives a building permit and diligently carries out development prior to the expiration of this period.
- b. **Site Plan Modification.** The Planning Director may approve an application to modify a previously approved site plan if they determine that the modification does not affect findings related to the following:
  - I. **Land Use Compatibility.** Development density or intensity should be similar to surrounding uses if not separated by major natural or artificial features.
  - II. **Height and Scale.**
    - i. Development should minimize differences in height and building size from surrounding structures.
    - ii. Differences should be justified by urban design considerations; development should respect pre-existing setbacks in surrounding area.
    - iii. Variations should be justified by site or operating characteristics.
    - iv. Building coverage should be similar to that of surrounding development of possible.
    - v. Higher coverage should be mitigated by landscaping or site amenities.
  - III. **Site Development.**
    - i. Projects frontage along a street should be similar to lot width.
    - ii. Parking should serve all structures with minimal conflicts between pedestrians and vehicles.
    - iii. All structures must be accessible to public safety vehicles.
    - iv. Development must have access to adjacent public streets and ways.

- v. Internal circulation should minimize conflicts and congestion at public access points.
  - vi. Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses.
  - vii. Parts of site with sensitive environmental features or natural drainageways should be preserved.
- IV. **Building Design.** Architectural design and building materials should be compatible with surrounding areas or highly visible locations.
- V. **Operating Characteristics.**
- i. Projects should not obstruct traffic on adjacent streets.
  - ii. Compensating improvements will be required to mitigate impact on street system operations.
  - iii. Project design should direct nonresidential traffic away from residential areas.
  - iv. Projects with long operating hours must minimize effects on surrounding residential areas.
  - v. Outside storage areas must be screened from surrounding streets and less intensive land uses.
- VI. **Public Facilities.**
- i. Developments within five hundred (500) feet of a public sanitary sewer must connect to sewer system.
  - ii. Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare.
  - iii. Sanitary sewer must have adequate capacity to serve development.
  - iv. Development should handle storm water adequately to prevent overloading of public storm water management system.
  - v. Development should not inhibit development of other properties.
  - vi. Development should not increase probability of erosion, flooding, landslides, or other run-off related effects.
  - vii. Projects must be served by utilities.
  - viii. Rural estate subdivisions should be located in designated areas which can accommodate utility and infrastructure installation consistent with the need to protect the environment and public health.
- VII. **Comprehensive Plan.** Projects should be consistent with the Comprehensive Plan.
- c. **Revocation.** The Planning Director, or their designee may revoke a site plan approval if they determine that the development does not comply with the terms and conditions of the approval. Such revocation may be appealed in accordance with Subsection 11-1002(E)(4)(a): *Appeals*.
6. **Approval to Run With Land.** An approval pursuant to this Section shall run with the land until the expiration date of such approval.
- I. **Sign Permit.**
- 1. **Generally.** A sign permit is required for signs as specified in Article 7: *Signs*. If a proposed sign meets all standards of this UDC, or all standards set out in an approved Comprehensive Sign Plan as

specified in Section 11-709: *Comprehensive Sign Plan*, then the Planning Director will issue the Sign Permit.

2. **Procedure.** Sign permits are an administrative procedure in which the Planning Director verifies that an application for approval of a sign complies with the requirements of Article 7: *Signs*, which may include a Comprehensive Sign Plan approved by the Planning Commission. Sign Permits may be issued simultaneously with building permits or other required permits.
3. **Planning Director Action.** The Planning Director shall either:
  - a. Approve,
  - b. Approve with conditions, or
  - c. Deny the application.
  - d. **Expiration.** An approved sign permit shall become void one (1) year after the date of approval, unless the applicant diligently carries out sign installation prior to the expiration of this period.

#### 11-1004. General Board/Commission Procedures

- A. **Recording of Documents.** Recording of documents as required by the City and as required by state statutes, shall be completed by the City Clerk in a timely manner and at the expense of the applicant. Notice of all fees shall be furnished to the applicant by the Planning Director and paid prior to the recording of documents.
- B. **Statutory Requirements.** Notice of the time and place of such hearing shall be given in accordance with state statutes, as amended from time to time.

#### 11-1005. Text Amendments

- A. **Generally.** The City Council may amend the text of this UDC in accordance with the procedures set out in this Article, to implement the Comprehensive Plan, as may be amended from time to time, conform to state or federal legal requirements, address changing or changed conditions, or otherwise advance the public health, safety, and welfare of the city.
- B. **Initiation of Amendment.** Petitions for amendments to this UDC shall be made to the Planning Director. The City Council and any other body that is described in this UDC, may initiate an amendment.
- C. **Criteria for Text Amendments.** Recommendations and decisions regarding petitions for amendments to text of this UDC are legislative in nature, but shall be based on consideration of all the criteria that the proposed amendment:
  1. The text amendment is consistent with the Comprehensive Plan, or, if it addresses a topic that is not addressed or not fully developed in the Comprehensive Plan, the proposed amendment does not impair the implementation of the Comprehensive Plan.
  2. Is consistent with the stated purposes of this UDC.
  3. Will maintain or advance the public health, safety, or general welfare.
  4. Will help to mitigate adverse impacts of the use and development of land on the natural or built environment, including, but not limited to mobility, air quality, water quality, noise levels, storm water management, wildlife protection, and vegetation; or will be neutral with respect to these issues.
  5. Will advance the strategic objectives of the City Council, such as fiscal responsibility, efficient use of infrastructure and public services, and other articulated city objectives.
- D. **Procedure.**

1. **Planning Director Review.** The Planning Director shall review each proposed amendment for compliance with the criteria of Subsection C., above, and refer the application to other departments or entities as deemed necessary. Based on the results of those reviews, the Planning Director shall provide a report and recommendation to the Planning Commission.
2. **Planning Commission Hearing and Recommendation.**
  - a. The Planning Commission shall hold a public hearing on the proposed text amendment. Following the public hearing, the Planning Commission shall make a final report to the City Council.
  - b. Upon receiving the report of the Planning Commission, the Planning Director shall draft an ordinance, submit it to the City Attorney for approval as to form, and shall forward the ordinance to the City Council for consideration.
3. **City Council Action.** Upon receipt of the final report from the Planning Commission, the City Council shall vote to approve, approve with amendments, or reject the proposed amendment, based on the approval criteria in Subsection C., above. The City Council also may refer the proposed amendment back to the Planning Commission for further consideration, continue a public hearing, or postpone action on an application for a period not to exceed ninety (90) days.
4. **No Retroactive Cure of Violations.** The amendment of text of this UDC may transform a legally nonconforming situation into a conforming one. However, no petition for a Text Amendment shall be used to cure a violation of any party of this UDC.

## 11-1006. Map Amendments

- A. **Generally.** The boundaries of any zoning district in the city may be changed, or the zoning classification of any lot or tract may be changed, as provided in this Subsection.
- B. **Initiation of Map Amendments.**
  1. A Map Amendment may be initiated by the owner of the property to be rezoned or their authorized agent or representative, the City Council, the Planning Commission, or by the Planning Director. Map Amendment applications by property owners and their agents or representatives shall be submitted on a form approved by the Planning Director, which is available in the offices of the Planning Director.
  2. The Planning Director may require the submission of such other information as may be necessary to permit the informed exercise of judgment under the criteria for the review of a Map Amendment application. Such information shall be related to the scale, location, and impacts of the Map Amendment application and may include, by way of illustration and not limitation, analysis of the capacity of the land to support development (e.g., soil characteristics and hydrology) or the additional impacts (or reduction in impacts) that may be created by changing the district designation, in terms of:
    - a. Traffic (trip generation),
    - b. Drainage (flooding and storm surge),
    - c. Visual, aesthetic, and land use adjacency impacts,
    - d. Water and waste water use and availability, and
    - e. Other information determined by the City as necessary to make an informed analysis and decision.
- C. **Criteria for Approval.** The Planning Commission may recommend approval, and City Council may grant the approval of a Map Amendment request if it is demonstrated that:

1. The proposed Map Amendment advances the goals, objectives, and policies of the Comprehensive Plan or another adopted land use or area plan, including but not limited to redevelopment plans,
2. The proposed Map Amendment is consistent with the future land use plan of the Comprehensive Plan,
3. The proposed Map Amendment is consistent with the implementation of existing or pending plans for providing streets, water and wastewater, other utilities, and the delivery of public services to the area in which the lot or tract proposed for a Map Amendment is located,
4. The range of uses and the character of development that is allowed by the proposed Map Amendment will be compatible with the properties in the immediate vicinity of the lot or tract proposed for a Map Amendment, and the lot or tract proposed for a Map Amendment has sufficient dimensions to accommodate reasonable development that complies with the requirements of this UDC, including parking and buffering requirements, and
5. The pace of development and/or the amount of vacant land currently zoned for comparable development in the vicinity suggests a need for the proposed Map Amendment to ensure an appropriate inventory of land to maintain a competitive land market that promote economic development.

**D. Procedures.**

1. **Pre-Application Conference.** Prior to filing an application, the Planning Director may hold a pre-application conference with the applicant to familiarize the applicant with the development review and approval process, and application provisions of this UDC that are required to permit the proposed development.
2. **Additional Information Required.** If the Planning Director requires additional information pursuant to Subsection B.2., above, the Planning Director may suspend the process and notify the applicant regarding the specific information requested.
3. **Submittal of Additional Information.** The applicant shall provide the additional information within thirty (30) days of the date of the Planning Director's request. If the materials are not submitted within said time period, the application shall be rejected.
4. **Planning Commission Hearing and Report.** The Planning Commission shall hold a public hearing on the proposed Map Amendment and issue a final report to the City Council. The Planning Director shall forward the final report from the Planning Commission to the City Council with a recommendation.
5. **Joint Hearing.** After publishing notice as required by the State of Nebraska, the City Council may hold a public hearing pertaining to zoning that is required by this UDC or the statutes of Nebraska jointly with any public hearing required to be held by the Planning Commission, but the City Council shall not take action until it has received the final recommendation of the Planning Commission.
6. **Decision.**
  - a. The City Council shall hold a public hearing on the application at which time they will consider the recommendation of the Planning Commission and take one of the following actions:
    - I. Approve the Map Amendment by ordinance,
    - II. Approve the Map Amendment by ordinance with modifications,
    - III. Deny the Map Amendment, or
    - IV. Refer the proposed Map Amendment back to the Planning Commission for further consideration.
  - b. The City Council shall support its decision to deny the Map Amendment with written findings of fact regarding the approval criteria in Subsection C., above.

7. **Protest Petition.** In case of a protest against such Map Amendment, signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending three hundred (300) feet therefrom, and of those directly opposite thereto extending three hundred (300) feet from the street frontage of such opposite lots, and such change is not in accordance with the comprehensive plan, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the City Council.
  8. **Expiration.** An application for a change to the Map or the UDC shall become void one (1) year after the date of application if the Planning Commission has not held a hearing within that period of time.
- E. **Effective Date.** In accordance with this Subsection, no amendment, supplement, or change of the UDC or official zoning map shall become effective unless and until the Planning Commission has submitted its report and recommendations to the City Council, the City Council has held three (3) readings including a public hearing, and a final vote has been taken on the Map Amendment or text change to the UDC by the City Council. The ordinance shall become effective fifteen (15) days after the City Council has taken a final vote and held the third and final reading, unless the second and/or third reading are waived by the City Council.

### 11-1007. Conditional Use Permit.

- A. **Generally.** A Conditional Use is a use that is allowed within a district, but which is subject to specific standards and a public meeting process to reduce the potential for incompatibility with other uses within the district. These uses commonly have the potential for various adverse impacts such as traffic congestion, noise, visual and aesthetic impacts, which if unmitigated, could undermine the integrity of the district. The designation of a Conditional Use means that it is only allowed in a proposed location if all of the conditions applicable to the use the criteria of Subsection B, below, and all of the other applicable requirements of this UDC or conditions of the Planning Commission and City Council are met.
- B. **Criteria for Approval.** In addition to the applicable standards of this UDC, all Conditional Uses shall comply with the following standards:
1. The Conditional Use shall be consistent with the Comprehensive Plan and other policy documents.
  2. The Conditional Use shall be compatible with surrounding land uses and the natural environment, and will not materially detract from the character of the immediate area or negatively affect the planned or anticipated development or redevelopment trajectory.
  3. The approval of the Conditional Use will not create a critical mass of similar Conditional Uses that is likely to discourage permitted uses by making the vicinity less desirable for those uses.
  4. The Conditional Use and any conditions of development shall adequately protect public health and safety against natural and man-made hazards including but are not limited to, traffic noise, water pollution, airport hazards, and flooding.
  5. The Conditional Use will not use an unfairly disproportionate share of public services that would compromise the delivery of those services to other uses in the vicinity. Applicable public services include, but are not limited to, utilities, police protection, fire protection, schools, parks, and libraries.
- C. **Procedure.**
1. **Pre-Application Conference.** Prior to filing an application, the Planning Director may hold a pre-application conference with the applicant to familiarize the applicant with the development review and approval process, and application provisions of this UDC that are required to permit the proposed development.
  2. **Staff Review.** The Planning Director shall review the Conditional Use for compliance with the criteria of Subsection B, above, and refer the application to other departments or entities as deemed necessary.

Based on the results of those reviews, the Planning Director shall provide a report and recommendation to the Planning Commission.

3. **Planning Commission Hearing and Action.**

- a. The Planning Commission shall hold a public hearing on the proposed Conditional Use Permit. Following the public hearing, the Planning Commission shall make a final report to the City Council.

D. **Decision; Conditions of Approval.** The Planning Director may recommend, and the Planning Commission may recommend, and the City Council may attach, conditions of approval to the Conditional Use to mitigate its impacts to ensure its compliance with Subsection B, above, and/or to ensure and monitor continued compliance with this UDC. Conditions shall be roughly proportional to the impacts to which they are addressed. The subject matter of conditions, by way of illustration and not limitation, may include, but not be limited to:

1. Additional landscaping or buffering, or landscaping improvements,
2. Building or facade improvements,
3. Limitations on the use or related activities,
4. Noise abatement measures,
5. Limitations on lighting, such as lighting curfews or restrictions on levels of illumination,
6. Measures to control, mitigate, or direct traffic,
7. Parking, loading, and site circulation adjustments,
8. Restrictions on outdoor displays, sales, or storage,
9. Standards and assurances regarding the maintenance of property, and
10. Restrictions on signage that relate only to the sign structure, materials, lighting, placement, size, or type, but not to the content of messages displayed (unless such messages are not protected speech).

## 11-1008. Appeals to City Council

- A. **Generally.** Appeals from decisions of the Planning Commission are heard by the City Council as provided in Subsection C, below.
- B. **Jurisdiction; Limitation of Jurisdiction.** The City Council may decide appeals of dispositive decisions of the Planning Commission which are made during the processing of applications for approvals pursuant to this UDC. An asserted error in any order requirement, permit, decision, determination, refusal, or interpretation made by the Planning Commission in interpreting the provisions of this UDC may be appealed to the City Council, provided that:
1. The action is dispositive with respect to the application or a material part of it, and
  2. The appeal is not used to address or resolve disputed questions of fact or law in connection with an enforcement action, or to seek relief from an enforcement action.
- C. **Filing of Appeal.** An appeal may be brought by any person or entity that is aggrieved by the decision appealed, as follows:
1. A complete application for an appeal, including required fees, shall be filed with the Planning Director within thirty (30) days of the date of the decision appealed from. No appeal will be heard if the application is untimely.
  2. Upon a finding that the application is complete, the Planning Director shall schedule the appeal for

consideration at a hearing before the City Council. The Planning Director shall transmit all applications and other records pertaining to such appeal to the City Council.

**D. Hearing.**

1. Upon receiving the application materials from the Planning Director, the City Council shall hold a public hearing on the appeal.
2. The burden of proof shall rest with the appellant.

**E. Effect of Appeal.** The City Council shall have the power to review the decision, and may grant the appeal, grant the appeal with conditions that modify the order appealed from, or deny the appeal.

## 11-1009. Enforcement and Remedies

**A. Purpose.** This Section establishes the procedures that the City may use to ensure compliance with the provisions of this UDC and to correct violations. This Section also sets out the remedies and penalties that the City may seek to correct violations. The provisions of this Section are intended to encourage the voluntary correction of violations.

**B. Application.**

1. **Enforcement Official.** The provisions of this UDC shall be administered and enforced by the City Administrator or such other person(s) as may be designated by the City Administrator.
2. **Compliance Required.** No person shall develop or use any land, building, or structure within the city in violation of this UDC, regulations authorized under this UDC, or the terms and conditions of permits issued under this UDC or adopted uniform codes. The use of any land or structure shall conform to all conditions, restrictions, or limitations contained in any permit or required under any ordinance, and failure to conform shall be a violation of this UDC.
3. **Continuation of Prior Enforcement Actions.** Nothing in this UDC shall prohibit the continuation of previous enforcement actions undertaken by the City pursuant to regulations in effect before the effective date of this UDC. Enforcement actions initiated before the effective date of this UDC and amendments hereto may be continued to completion or settlement under the terms of the regulations in effect prior to the effective date of this UDC.

**C. Administrative Official.**

1. **Responsibility.** The Planning Director, or an appointee, who is designated by the City Administrator shall be responsible for administering and enforcing these regulations. As the administrative official, the Planning Director may be provided with the assistance of such other persons as the City Administrator may direct.
2. **Correction of Violations.** If the Planning Director, or an appointee, finds that any of the provisions of this UDC are being violated, they shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Planning Director, or an appointee, shall order the following:
  - a. Discontinuance of illegal use of land, buildings, or structures,
  - b. Removal of illegal buildings or structures or of additions, alterations, or structural change thereto,
  - c. Discontinuance of any illegal work being done, or
  - d. Shall take other action authorized by law to ensure compliance with or to prevent violation of the UDC.

**D. Violations.**

1. **Complaints.** Whenever a violation of this UDC occurs or is alleged to have occurred, any person may

file a written complaint. Such complaint stating fully the causes and basis of the complaint shall be filed with the Planning Director, acting as the administrative official. The Planning Director shall record properly such complaint, immediately investigate, and take action as provided by this UDC.

2. **Penalties.** Violations of the provisions of this UDC or failure to comply with any of its requirements shall constitute a misdemeanor. Any persons who violate this UDC or fails to comply with any of its requirements shall upon conviction thereof be fined not less than an amount set out in the fee schedule established by City Council, as amended from time to time, or imprisoned for not more than sixty (60) days, or both, and, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
3. **Penalties of Responsible Parties.** The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this Section.
4. **Other Lawful Action.** Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.
5. **Repeat Violations.** When a person has deliberately commenced a project without a permit and it is a second violation of this UDC by the offender, then the Building Official shall refer the project for abatement or judicial remedy as set out in this Section.

E. **Abatement.**

1. **Generally.** The City may abate violations of this UDC pursuant to this Subsection. This remedy is authorized for, but is not limited to, any situation where any property owner fails to construct, improve, or maintain any improvement that is required by the terms of any permit or approval, or any condition upon any land that is in violation of this UDC.
2. **Warning Notice Required.** Before action is taken to abate a violation to this UDC or any violation to an ordinance or other policies of the City, a final warning notice shall be posted on the property and served personally or by certified mail with return receipt required to the owner of record of the property, or to the property owner association, as applicable, and a period of ten (10) days shall be given from the date of the notice indicated by the date on the letter. Failure to receive such notice when proof of delivery to the correct address has been provided by the U.S. Post Office shall not forestall enforcement action under this provision.
3. **Timing of Abatement.** Unless this notice is appealed, pursuant to requirements herein within ten (10) days of the posting of the final warning, the City may proceed to abate the violation in accordance with City policies and procedures.
4. **Documentation of Costs.** The Planning Director shall keep an account of the direct and indirect cost incurred by the City in the abatement of any violation. The Planning Director shall forward a bill for collection to the violator or association, and to owner of record of the property specifying the nature and costs of the work performed. For purposes of this Subsection, direct and indirect costs shall include, but not be limited to, the actual expenses and costs to the City in the preparation of the notices, specifications and contracts, actual physical abatement processes, work inspection, and interest from the date of completion at the rate prescribed by law for delinquent real property taxes.
5. **Payment of Costs by Owner.** The responsibility for payment of the charges for abatement as set out in this Subsection shall rest solely upon the owners of the property upon which the abatement occurred, or the property owners' association, as applicable. Such charges shall become a lien upon the real property or properties upon which the violation was located or upon properties associated with the property upon which the violation was located. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state or municipal property taxes, with which it shall be upon a parity. The lien shall continue until the charges and all interest due and payable thereon are paid.

6. **Allocation of Costs for Property Controlled by Property Owners' Associations.** Where a property owners' association is involved:
  - a. Expenses under Subsection E., above, shall be prorated among all lots and/or owners of lots within the subdivision.
  - b. Actions directed under this Subsection are considered delivered if they are addressed and sent by certified mail to the responsible person(s) who are shown to be the responsible person(s) on the most recent tax roll of the City.

**F. Judicial Remedies.**

1. **Generally.** This Subsection sets out remedies that may be requested by the City to enforce this UDC in a court of competent jurisdiction. This Subsection shall not limit the power of the City to pursue multiple or alternative actions, remedies, and penalties, or to pursue actions, remedies, and penalties that are authorized by law but not listed in this Subsection.
2. **Fines.** Any person, firm, corporation, agent, or employee thereof who violates any of the provisions of this UDC shall be fined according to the provisions of the Master Fee Schedule of the City of Fremont, as amended from time to time.
3. **Injunctive Relief.**
  - a. The City may seek injunctive relief or other appropriate relief in court of competent jurisdiction against any person who fails to comply with any provision of this UDC or any requirement or condition imposed pursuant to this UDC or any violation to a uniform code or other policies of the City. In any court proceedings in which the City seeks a preliminary injunction, it shall be presumed that a violation of this UDC or continued violation of this UDC is, will, or may be an injury to the public health, safety, or general welfare; that the public health, safety, or general welfare will or may be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject violation.
  - b. The City may seek an affirmative injunction to require the demolition or removal of a structure, or to allow the City to demolish or remove a structure and recover costs against the landowner, pursuant to the provisions of state law.

**G. Special Provisions.**

1. **Conditional Uses.**
  - a. **Generally.** The provisions of this Subsection may be applied to enforce a Conditional Use Permit.
  - b. **Inspection.** The City may:
    - I. Make inspections to determine compliance with the provisions of this UDC and the Conditional Use Permit, and initiate appropriate action as necessary, and/or
    - II. Keep a record of complaints, indicating any action taken. These records shall be made available at the time of renewal of the Conditional Use Permit if there has been a time period placed on the Conditional Use, or where the Planning Commission has been requested to review the Conditional Use for compliance.
  - c. **Conditional Use Permit Revocation.** Upon determination of noncompliance with the provisions of the Conditional Use Permit, the City will take actions as necessary to assure compliance. Such actions may include non-renewal or revocation of the permit as follows:
    - I. The Planning Director shall provide a notice of violation to the record owner of the property upon which a Conditional Use is located, advising the owner that the use must be brought into compliance with specified UDC sections within thirty (30) days from the date of the notice.

- II. If total compliance has not occurred or a plan for compliance has not been submitted to the Planning Director within thirty (30) days from the date of notice, then the Planning Director shall issue a cease-and-desist order and notify the record owner of a hearing date by the Planning Commission to consider revocation of the Conditional Use Permit.
- III. The Planning Commission shall revoke the Conditional Use Permit if the use and/or property is/are not in total compliance. The Planning Commission may grant up to a thirty (30) day period for compliance. The Conditional Use Permit shall remain in suspension and the cease-and-desist order shall remain in effect until total compliance is obtained.
- IV. At the end of a compliance period the Planning Commission shall revoke the Conditional Use Permit if total compliance has not been obtained.
- V. If the use and property are brought into compliance, any further violation of terms of the Conditional Use Permit within ninety (90) days from the initial notice of violation are grounds for immediate revocation of the Conditional Use Permit.
- VI. Revoked Conditional Use Permits may only be reinstated by the City Council, which may impose conditions to ensure compliance

# Article 11. Nonconformities

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## 11-1101. Purpose

- A. **Generally.** The City includes areas that have been developed for many years. Therefore, applying new regulations to existing development will create situations in which existing land uses, lot dimensions, development density or intensity, buildings, structures, landscaping, open spaces, parking and loading areas, and/or signs do not strictly comply with the new requirements, even though they complied with the regulations at the time they were permitted and constructed. The fact that these nonconformities were at one time conforming means that they are now considered "legally nonconforming" and therefore, will be permitted to continue without immediate retrofit until significant site or use changes are proposed. This Article sets out fair rules for whether, when, and how the regulations of this UDC apply to existing development.
- B. **Reduction of Nonconformities.** It is the policy of the City to encourage reinvestment in property that increases its value and utility and improves its quality and character. Since bringing a developed lot or tract into full compliance with this UDC may involve substantial cost (which could discourage reinvestment), this Article provides a set of thresholds for determining when new construction or modifications to development trigger a requirement for meeting the various standards of this UDC.
- C. **Unlawful Uses, Buildings, Structures, or Signs.** This Article does not authorize or legitimize uses, buildings, structures, or signs that are not "legally nonconforming" but instead remain "unlawful" and are subject to all the provisions of this UDC (including enforcement provisions) and any other applicable law. Likewise, this Article does not legitimize unlawful subdivisions of property that may have occurred before the effective date of this UDC.

## 11-1102. Application

- A. **Generally.** This Article applies to uses, lots, buildings, structures, site access, parking, landscaping, site improvements, signs, and lighting, that were lawfully constructed or established, but do not conform to the requirements of this UDC.
- B. **Exceptions to this Article.**
1. **Maintenance.** This Article does not exempt property owners from ongoing maintenance requirements, including, but not limited to, the maintenance of drainage structures and systems, parking lots (e.g., upkeep of paving and striping), and landscaping. See Section 11-1113: *Additions, Alterations, and Repairs*.
  2. **Eminent Domain; Governmental Acquisition.** Any nonconforming land or structure expressly created or caused by a conveyance of privately-owned land to a federal, state, or local government to serve a public purpose shall be construed as "legally nonconforming" and may continue without immediate retrofit until significant site or use changes are proposed. This interpretation applies only in cases where private land is obtained by a governmental entity for a public purpose, through condemnation, threat of condemnation or which otherwise creates a nonconforming situation in the remaining lot or tract in terms of lot size, setback, or other standards of this UDC. This exemption does not apply to right-of-way dedication or other public conveyances of land required by the City in the course of subdivision or other development approvals pursuant to this UDC.
- C. **Effect of Section.**
1. **Effect on Existing Development Entitlements.** Nothing in this UDC shall be interpreted to require a change in plans, construction, or designated use of any building in which a building permit was lawfully issued prior to the effective date of adoption or amendment of this UDC, provided construction was commenced within one hundred eighty (180) days of obtaining the building permit and is diligently completed.
  2. **Effect on Existing Unlawful Uses, Buildings, Signs, Structures, and Lots or Tracts.** Any use, lot or tract of land, building, structure, and/or sign, which was used, erected, or maintained in violation of any previous regulations shall not be considered as a legal, nonconforming use, lot or tract, building, structure, and/or sign, and shall be required to comply with all provisions of this UDC.

## 11-1103. Use Nonconformities

- A. **Generally.** A nonconforming use is a use of land that was lawfully established (e.g., it was allowed and legally authorized, if legal authorization was required) on a lot or tract before the effective date of the adoption or amendment of this UDC, that is no longer allowed or which does not conform with applicable use specific standards after the effective date of the adoption or amendment of this UDC. The following uses are legally nonconforming uses:
1. **Permitted Uses.** Uses that were lawfully established but are not currently listed as Permitted, Limited, or Conditional Uses in the district set out in Section 11-501: *Permitted, Limited, Conditional, and Temporary Uses*, are legally nonconforming uses.
  2. **Limited Uses.** Uses that are listed as Limited Uses in the district set out in Section 11-501: *Permitted, Limited, Conditional, and Temporary Uses*, but were lawfully established without a limited use permit and do not comply with the applicable standards of Section 11-501: *Permitted, Limited, Conditional, and Temporary Uses*.
  3. **Conditional Uses.**
    - a. Uses that are listed as Conditional Uses in the district set out in Section 11-501: *Permitted, Limited, Conditional, and Temporary Uses*, but were lawfully established without a Conditional Use Permit. Changes to the use shall require approval of a Conditional Use Permit to validate that the use is compatible with the surrounding uses.
    - b. Uses that were approved with a Conditional Use Permit but are no longer allowed in the district shall be considered legally non-conforming. Changes to the use shall require approval of an updated Conditional

Use Permit to validate that the use is compatible with the surrounding uses.

4. **Flood Prone Uses.** Uses that were lawfully established within a floodplain or floodway, but are no longer permitted in the floodplain or floodway. See Section 11-406: *F-O: Floodway Overlay and Flood Fringe Overlay Districts* for specific requirements.
- B. **Classifications of Nonconforming Uses.** There are two classes of nonconforming uses. The classifications include:
1. **Major Nonconforming Uses.** Major nonconforming uses are:
    - a. Residential structures and non-conforming structures located in the regulatory floodway,
    - b. Non-conforming structures located in the regulatory floodplain, and
    - c. Substantially damaged structures in the floodway or in the floodplain, and
    - d. Residential structures located in an industrial district.
  2. **Minor Nonconforming Uses.** Minor nonconforming uses are all nonconforming uses that are not classified as major nonconforming uses.

#### 11-1104. Lot Nonconformities

- A. Nonconforming lots are lots that were lawfully created before the effective date of the adoption or amendment of this UDC, but which no longer comply with the standards of this UDC including but not limited to lot area, width, depth, frontage, or access requirements of this UDC, as set out in Article 3: *Base District Specific Standards*.

#### 11-1105. Building Nonconformities

- A. A nonconforming building that was lawfully constructed prior to the effective date of the adoption or amendment of this UDC that does not conform to the standards of this UDC including but not limited to: floodplain regulations, yard setback, height, coverage ratio, impervious cover, building scale, landscaping, design standards, or intensity, that are applicable to the same type of building in the district in which the building is located.

#### 11-1106. Structure Nonconformities

- A. **Generally.** A nonconforming structure is a structure other than a building that was lawfully constructed prior to the effective date of the adoption or amendment of this UDC that does not conform to the standards that are applicable to the same type of structure in the district in which the structures is located.
- B. **Examples.** The following are illustrative examples of nonconforming structures, including but not limited to:
  1. Fences or walls that do not comply with the standards of this UDC including but not limited to height, setback, or material standards set out in Section 11-605: *Fences*.
  2. Accessory structures that do not comply with the standards of this UDC including but not limited to location, height, construction methods, design and appearance, or building standards set out in Section 11-515: *Accessory Use Specific Standards*, and
  3. Structures located in floodplains, floodways, required yards, or open space areas that do not comply with the applicable regulations of this UDC.

#### 11.1107. Parking, Access, and Circulation Nonconformities

- A. Nonconforming parking refers to parking, loading, access management, and circulation that does not conform to the requirements of this UDC that are set out in Section 11-601: *Off-Street Parking and Loading*, in terms of

their number, dimensions, location, or the surfacing and maintenance of off-street parking areas.

### 11-1108. Landscaping and Screening

- A. Nonconforming landscaping and screening is landscaping or screening (or lack thereof) that does not conform to the landscaping or the screening requirements of Section 11-603: *Landscape*, or other provisions of this UDC that require the designation of open space, landscape, or the buffering of/transition between uses. Nonresidential, mixed-use, and multifamily residential lots or tracts that were lawfully developed but do not include the required landscape, open space, or screening that is required after the effective date of the adoption or amendment of this UDC are also nonconforming with respect to landscaping and screening.

### 11-1109. Signs

- A. **Generally.** Any sign located within the City or its extra-territorial jurisdiction (ETJ) on the effective date of the adoption or amendment of this UDC that does not conform to the provisions of Article 7: *Signs*, or, if applicable, Section 11-501: *Permitted, Limited, Conditional, and Temporary Uses*, is a "legal nonconforming" sign, provided it also meets the following requirements:
1. The sign is a permanent sign, and
  2. One of the following apply:
    - a. The sign was approved by a sign permit before the effective date of the adoption or amendment of this UDC if a permit was required under applicable law,
    - b. If no sign permit was required under applicable law for the sign in question and the sign was in all respects in conformity with the applicable law or conditions of approval immediately prior to the effective date, or
    - c. The sign had legal nonconforming status on the effective date of this UDC.
- B. **Existing Signs on Annexed Property.** If land is annexed into the City or becomes part of the City's extra-territorial jurisdiction after the effective date of this UDC, any signs that do not conform to the provisions of this UDC at such time shall have legal nonconforming status if:
1. Under applicable regulations, the sign was legal in all respects immediately prior to annexation,
  2. The sign is a permanent sign, and
  3. The annexation was not conditioned upon the removal or modification of the sign.

### 11-1110. Termination, Restoration, and Removal

- A. **Generally.** This Subsection sets out the standards for when a nonconformity must be terminated or removed, and when it is allowed to be restored after temporary cessation, damage, or destruction.
- B. **Extensions.** A property owner can submit a request to the City Council to extend any regulated time period in this Subsection. The City Council must approve the request for a new stated time period for discontinuance, construction, or repair.
- C. **Nonconforming Uses.**
1. If a major nonconforming use is discontinued for a period of twelve (12) months, whether or not the equipment or fixtures are removed, it shall not be resumed. However, the time a property is being actively listed for sale or lease, while being maintained, does not count toward the discontinued period.

2. If a minor nonconforming use is discontinued for a period of twelve (12) months, whether or not the equipment or fixtures are removed, it shall not be resumed. However, the time a property is being actively listed for sale or lease, while being maintained, does not count toward the discontinued period.
- D. **Unenclosed Nonconforming Uses.** If a nonconforming use that is not enclosed within the confines of a building existing as of the effective date of the adoption of this UDC is discontinued for a period of twelve (12) months, for any reason, it shall not be resumed until it is brought into conformance with the provisions of this UDC including screening and landscaping
- E. **Nonconforming Uses or Structures in a Floodplain or Floodway**
1. The standards of Subsection 11-406(F): *Nonconforming Use*, applies.
- F. **Nonconforming Buildings, Structures, and Elements of Buildings or Structures.**
1. If a nonconforming building or structure or a nonconforming element of a building or structure is damaged or destroyed by any means or declared unsafe by the building official to an extent that repairs would exceed more than fifty (50) percent of the appraised value of the building or structure or a damaged nonconforming element of a building or structure, the building, structure, or elements of the building or structure shall be reconstructed in conformity with the provisions of this UDC.
  2. If the reconstruction cost and/or area of reconstruction (whichever is less) is less than or equal to fifty (50) percent of the appraised value or area of the building structure, or elements of the building or structure may be strengthened or restored to a safe condition provided that:
    - a. The original nonconformity is not enlarged, increased, or extended,
    - b. Building permits are obtained for repairs within six (6) months of the date the building, structure, or elements of the building or structure was damaged or, if no date can be reasonably established for the damage, the date that the Building Official determines that the building is unsafe,
    - c. Construction commences within twelve (12) months after a building permit is obtained, and
    - d. The construction is complete within eighteen (18) months from the time the building permit was obtained.
  3. **Exemptions.**
    - a. Nonconforming buildings and structures in the DC District that are damaged or destroyed by any means can be reconstructed as originally built, regardless of the level of repairs required. This exemption does not include buildings and structures in the DC District which are in a floodplain or floodway.
- G. **Nonconforming Parking.**
1. **Number of Parking Spaces.**
    - a. If an existing building or use is expanded, additional parking shall be required only in proportion to the new area of the building or use, as set out in Section 11-1114: *Compliance Thresholds*, unless otherwise approved by the Planning Director.
    - b. If the use of a building changes, resulting in additional demand for parking, additional parking shall be provided in an amount equal to the difference between the requirements of the former use (not the actual parking provided on-site) and the requirements for the new use, as set out in Section 11-601: *Off-Street Parking and Loading*, unless otherwise approved by the Planning Director.
    - c. If an existing building is redeveloped or substantially improved, parking shall be provided as required by Section 11-601: *Off-Street Parking and Loading*.
  2. **Size of Parking Spaces and Drive Aisles.** Parking spaces and drive aisles shall be sized

according to the requirements of Section 11-601(G): *Off-Street Parking Area Design* when so required by Section 11-1114: *Compliance Thresholds*.

- H. **Nonconforming Landscaping and Screening.** Multifamily, nonresidential, and mixed-use properties developed after October 10, 2000 that are nonconforming with respect to the standards of Section 11-603: *Landscape*, and Section 11-604: *Screening*, shall be brought into compliance when the property is redeveloped or substantially improved, and shall be brought into compliance as set out in Section 11-1114: *Compliance Thresholds*.
- I. **Nonconforming Signs or Sign Elements.**
1. **Modification.** A nonconforming sign shall not be expanded, extended, rebuilt, altered, modified (including but not limited to business rebranding, change of ownership, or transfer of the property), or reconstructed in excess of fifty (50) percent of its replacement cost.
  2. **Restoration.** A nonconforming sign which has been damaged by fire, wind, water, or other causes can be replaced to its original size before the damage occurred.
  3. **Replacement of Nonconforming Element.** If an element of a sign that causes the sign to be nonconforming is removed or replaced, it shall not be replaced, except with a conforming element.
  4. **Discontinuance of Message.** If a nonconforming sign structure does not display any message for a period of one hundred eighty (180) days, it shall be removed or brought into conformance with this UDC. For the purposes of this standard, a temporary sign may be used to display a message while a new sign face is being designed and fabricated.
  5. **Additional Signs.** A nonconforming sign shall be demolished, removed, or made to conform upon the addition of any new signage to the site or structure upon which the nonconforming sign is located. For the purposes of this standard, new attached tenant signs that conform with the requirements of the UDC shall not require other existing detached or attached signs to be replaced.
  6. **Removal.** If a nonconforming sign structure is removed for any reason other than routine repair and maintenance, it shall not be replaced unless the replacement sign conforms to this UDC.
  7. **Unsafe Signs.** Nonconforming signs that are a danger to public safety due to damage or wear, as determined by the City Building Inspector, shall be removed and shall not be replaced unless the replacement sign conforms to this UDC.

### 11-1111. Change of Use and Reuse

- A. **Generally.** A nonconforming use shall not be changed to another nonconforming use.
- B. **Effect of Change of Use.**
1. If a nonconforming use is changed to a conforming use, the nonconforming use shall not be resumed.
  2. If the use of only a portion of a building or property is changed from a nonconforming use to a conforming use, then the use of that portion of the building or property shall not be changed back to the nonconforming use.
- C. **Reuse of Vacant Nonconforming Buildings.** An existing vacant nonresidential building in a residential district, previously occupied by and structurally designed for nonresidential use, may be renovated and reoccupied under the following conditions:
1. An application for conversion of the use is filed pursuant to by Section 11-1114: *Compliance Thresholds*, and the application is granted,
  2. The off-street parking requirements comply with the provisions of Section 11-601: *Off-Street Parking and Loading*.
  3. The landscaping and screening requirements comply with the provisions of Section 11-603:

*Landscape, and*

4. The property complies with the applicable yard requirements.
5. A Conditional Use Permit to ensure the proposed use is compatible with and not detrimental to the surrounding uses in the district has been approved by the City Council.

## 11-1112. Nonconforming Lots; Combination and Construction

### A. Nonconforming Lots.

1. **Construction on Nonconforming Lots.** A nonconforming lot that does not meet district requirements with respect to area, lot width, or frontage may be built upon if:
  - a. The lot is a lot of record,
  - b. The use is permitted in the district in which the lot is located,
  - c. The lot has sufficient frontage on a public street to provide access that is appropriate for the proposed use, as determined by the Public Works Director, and
  - d. All yards and height standards are complied with.

### B. Combination of Lots to Increase Conformity.

1. Where a landowner owns several abutting lots that do not conform to the dimensional requirements of the district in which they are located, they shall be combined to create fully conforming lots or, if full conformity is not possible, they shall be combined if the combination will increase the degree of conformity.
2. The City will not require the combination of lots if:
  - a. The combination of lots would not address a nonconformity, and
  - b. Two (2) or more of the lots are developed with principal buildings, and the combination of lots would require that one or more of the buildings be torn down to comply with this UDC.

## 11-1113. Additions, Alterations, and Repairs

A. **Generally.** Repairs and modifications to nonconforming buildings, structures, and signs are permitted as provided by this Subsection.

### B. Expansion of Nonconforming Uses.

1. **Major Nonconforming Uses.** Major nonconforming uses shall not be expanded, enlarged, extended, increased, or moved to occupy an area of land or building that was not occupied on the effective date of this UDC or any amendment that made the use a major nonconforming use.
2. **Minor Nonconforming Use.** No minor nonconforming use shall be expanded or extended in such a way as to:
  - a. Occupy any open space or landscaped surface that is required by this UDC,
  - b. Exceed building cover, impervious cover, intensity, or height limitation of the district in which the use is located,
  - c. Occupy any land beyond the boundaries of the property or lot as it existed on the effective date of this UDC, or
  - d. Displace any conforming use in the same building or on the same lot or tract.

### C. Alterations and Repairs.

1. **Buildings Containing Major Nonconforming Uses.** No building or structure that contains a major

nonconforming use shall be enlarged unless the major nonconforming use is permanently discontinued.

2. **Structural Alterations.** Structural alterations to nonconforming buildings, structures, and signs are permitted only if it is demonstrated that the alteration will eliminate the nonconformity or reduce it in accordance with the standards of Section 11-1114: *Compliance Thresholds*.
  3. **Maintenance and Repair.** Routine maintenance of nonconforming buildings and structures is permitted, including necessary non-structural repairs, paint, and incidental alterations which do not extend or intensify the nonconforming buildings or structures. This standard also applies to buildings or structures that house nonconforming uses if they are designed in a way that is not suitable for re-use as a conforming use. If the building is conforming and could be re-used for a conforming use, there is no limitation on its maintenance.
  4. **Signs.** Routine maintenance of nonconforming signs is permitted, including necessary non-structural repairs, paint, and incidental alterations which do not extend or intensify the nonconforming sign. This standard applies to changing the message of a sign by replacing or repainting the sign face.
- D. **Expansion of Nonstandard Uses.** Notwithstanding any provision contained in this UDC to the contrary, in all zoning districts, a Conditional Use Permit may be granted to authorize:
1. The enlargement, extension, structural alteration, conversion, or reconstruction of a building or structure located upon a premises with a nonstandard use, and/or
  2. Decreased minimum requirements upon a premises with a nonstandard use provided that the City Council finds that such decrease in minimum requirements:
    - a. Would not adversely affect the surrounding area, and
    - b. The decrease is necessary in order for a building or structure located upon a premises to practicably be enlarged, extended, structurally altered, converted, or reconstructed, or such decrease is otherwise necessary to allow an existing premises to be subdivided.
  3. The Conditional Use Permit shall be granted pursuant to the procedures set forth in Section 11-1007: *Conditional Use Permit*, and shall comply with the standards for Conditional Use Permits set forth in that Section. In consideration of applications for the Conditional Use Permits under this Subsection, the following criteria shall be given specific consideration:
    - a. Effects on adjacent property, safety, traffic, and City utility service needs,
    - b. Density of land use zoning for the subject property and adjacent property, and
    - c. Economic impact for the City.
- E. **Exceptions to the Minimum Lot Requirements – Residential.** In a residential zoning district if a vacant lot or tract of land has less area or width or both less area and width than required and its boundary lines along their entire length abut lands under other ownership, such lot or tract of land may be used for a single-family dwelling provided that front and street side yard setback requirements are complied with, and a minimum five (5) foot interior side and rear yard is provided.
1. The City Council may, via Conditional Use Permit, reduce the minimum lot requirements for residential districts provided for herein to allow a lot to be subdivided into two lots on which a single-family attached dwelling may be constructed.
- F. **Exceptions to the Minimum Lot Requirements – Nonresidential.** In a nonresidential zoning district if a vacant lot or tract of land has less area or width or both less area and width than required and its boundary lines along their entire length abut lands under other ownership, such lot or tract of land may be used for development provided that front and street side yard setback requirements are complied with, a minimum five (5) foot interior side and rear yard is provided, and required parking and landscaping can be accommodated.
- G. **Enlargement, Extension, or Reconstruction of Nonstandard Single-Family Dwellings Into Required Yards.**

Lots or tracts of land containing more than one (1) single-family dwelling prior to January 1, 1971, may be subdivided to provide one (1) lot per residence provided that no such lot contains less area than three thousand five hundred (3,500) square feet. Where septic systems and/or water wells are required, land may be subdivided into lots smaller than one (1) acre but larger than 0.75 acre provided that the subdivider can receive approval to connect to City sewer and water services.

**11-1114. Compliance Thresholds**

- A. **Purpose.** The purpose of this Section is to encourage reinvestment in existing buildings and properties by reasonably mitigating the costs of retrofitting existing buildings and sites to achieve full compliance with this UDC. This Section does not relate to building code compliance or compliance with applicable engineering standards.
- B. **Administrative Compliance Requirements.** Set out in Table 11-1114(B): *Administrative Compliance Thresholds*, is the levels of reinvestment in property that trigger compliance with the regulations set out in this UDC.

Table 11-1114(B): Administrative Compliance Thresholds		
Type of Improvement	Definition of Improvement	Level of Compliance that is Required
<i>New development or redevelopment</i>	Development of vacant sites; cumulative expansion of a building by more than fifty (50) percent of its gross floor area; and, reconstruction of a building, except re-establishment of a nonconforming use or building pursuant this Article.	Full compliance with all provisions of this UDC is required. Compliance with Section 11-1112: <i>Nonconforming Lots; Combination and Construction</i> , is sufficient with respect to lot dimensions.
<i>Major expansions</i>	Cumulative expansion of a building by thirty (30) percent to forty-nine (49) percent of its gross floor area, or an increase in parking requirements of more than twenty (20) percent, as set out in Subsection 11-601(B): <i>Minimum Required Parking</i> .	<ol style="list-style-type: none"> <li>1. Major nonconforming uses shall be discontinued.</li> <li>2. Parking, loading, and access shall be provided, as required by Subsection 11-601(B): <i>Minimum Required Parking</i>.</li> <li>3. Landscaping improvements must be made which further the objectives of Section 11-603: <i>Landscape</i>.</li> <li>5. Screening shall be provided as required by Section 11-604: <i>Screening</i>.</li> </ol>

Table 11-1114(B): Administrative Compliance Thresholds		
Type of Improvement	Definition of Improvement	Level of Compliance that is Required
<i>Minor expansions</i>	Cumulative expansion of a building by less than thirty (30) percent of its gross floor area or an increase in parking requirements of twenty (20) percent or less, as set out in Subsection 11-601(B): <i>Minimum Required Parking</i> .	<ol style="list-style-type: none"> <li>1. Major nonconforming uses shall be discontinued.</li> <li>2. New parking spaces and drive aisles shall be dimensioned as required by Subsection 11-601(H): <i>Off-Street Parking Area Design</i>.</li> <li>3. Landscaping improvements for structures developed after October 20, 2000 must be made which further the objectives of Section 11-603: <i>Landscape</i>.</li> <li>4. If height is increased by more than twenty (20) percent within fifty (50) feet of a district boundary line or if the expansion reduces the dimension between the building and a district boundary line, transition areas shall be brought into compliance with Subsection 11-603(K), <i>Transition Landscape Zone Requirements</i>.</li> </ol>
<i>Building and site improvements</i>	Exterior building or architectural changes or site improvements that do not involve expansion of the building or parking area, but will change the physical character of the building or site beyond repair and maintenance.	<ol style="list-style-type: none"> <li>1. Major nonconforming uses shall be discontinued.</li> <li>2. New parking spaces and drive aisles shall be dimensioned as required by Subsection 11-601(G): <i>Off-Street Parking Area Design</i>.</li> <li>3. Landscaping improvements for structures developed after October 20, 2000 must be made which further the objectives of Section 11-603: <i>Landscape</i>.</li> <li>4. If height is increased by more than twenty (20) percent within fifty (50) feet of a district boundary line or if the expansion reduces the dimension between the building and a district boundary line, transition areas shall be brought into compliance with Subsection 11-603(K), <i>Transition Landscape Zone Requirements</i>.</li> </ol>
<i>Parking lot improvements</i>	Expansion or reconstruction improvements, including improvements to drainage, but not restriping alone, unless the restriping, according to the standards of Subsection 11-601(G): <i>Off-Street Parking Area Design</i> , results in reduction of the area of the existing parking spaces by more than ten (10) percent.	<ol style="list-style-type: none"> <li>1. Parking spaces and drive aisles shall be dimensioned as required by Subsection 11-601(G): <i>Off-Street Parking Area Design</i>.</li> <li>2. Parking lot landscaping for structures developed after October 20, 2000 shall be provided as required by Section 11-603: <i>Landscape</i>, even if it results in a reduction in the number of parking spaces, but only to the extent that the reduction does not result in a parking lot that contains less than eighty (80) percent of the required parking spaces set out in Subsection 11-601(B): <i>Minimum Required Parking</i>.</li> </ol>

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### 11-1201. “A” Definitions.

- A. **Access.** The provision of ingress and egress of traffic, including both vehicular and pedestrian, from an abutting property, including rights-of-way both public and private.
- B. **Access Easement.** An easement created for the purpose of providing vehicular or pedestrian access to and/or through a property.
- C. **Accessory Dwelling Unit.** A small, independent residential dwelling unit located on the same lot as a principal dwelling unit. Accessory dwelling units may be located as a building attached to a principal dwelling unit or as an accessory building detached from the principal building.

- D. **Accessory Building.** A building on the same lot as the principal building, the use of which is incidental to the use of the principal building. Accessory buildings including garages and storage sheds shall be anchored or have a foundation. Foundations shall meet the requirements of the adopted International Building Code (IBC) and/or International Residential Code (IRC) and applicable amendments. See also appurtenant structure.
- E. **Accessory Structure.** A structure on the same lot or tract as the principal structure, the use of which is incidental to the use of the principal structure. Accessory structures include decks, fences, and gazebos.
- F. **Accessory Use.** A use of land, structure, or building, or portion thereof, that is commonly associated with, incidental, and subordinate to a principal use, and located on the same lot or tract.
- G. **Adaptive Reuse.** #Rehabilitation or renovation of existing building(s) or structures for any use(s) other than the present use(s). For example, the conversion of former hospital or school buildings to residential use, or the conversion of an historic single-family home to office use.
- H. **Addition.** An extension or increase in floor area, number of stories or height of a building or structure which is not accompanied by a change in the use of a lot.
- I. **Adult Day Service.** A person or any legal entity which provides care and an array of social, medical, or other support services for a period of less than twenty-four (24) consecutive hours in a community-based group program to four (4) or more persons who require or request such services due to age or functional impairment.
- J. **Adult Establishment.** An adult arcade, adult bookstore, adult cabaret, adult novelty store, adult video store, and nude model studio, adult motel, adult motion picture theater, or sexual encounter center, or any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
- K. **Adverse Impact.** A negative consequence for the physical, social, or economic environment resulting from an action or project.
- L. **A-Frame Sign.** A sign designated or intended to be moved easily that is not permanently embedded in the ground or affixed to a building or other structure, including any sign that rests upon the ground, a frame, a building, or other structure. Also known as Sandwich Board Sign.
- M. **Agriculture.** Shall mean the use of land for planting, cultivating, harvesting and storage of grains, hay or plants, commonly grown in the vicinity or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural, aquacultural, floricultural, viticultural, or horticultural use but shall not include feedlots. Agriculture shall not mean the keeping of wild animals including species defined as zoo animals. Agricultural use shall not be construed to include any parcel of land of less than ten acres or any non-agricultural commercial or industrial development.
- N. **Agricultural and farm buildings and structures.** shall mean any building or structure which is necessary or incidental to the normal conduct of an agricultural use including but not limited to residence of the operator, residence of hired men, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.
- O. **Airport.** means (a) any area of land or water, except a restricted landing area, which is designed for the landing and takeoff of aircraft, whether or not facilities are provided for the sheltering, servicing, or repairing of aircraft or for receiving or discharging passengers or cargo, (b) all appurtenant areas used or suitable for airport buildings or other airport facilities, and (c) all appurtenant rights-of-way, whether heretofore or hereafter established.
- P. **Alcoholic Beverage Sales.** The retail sale of beer, wine, or other alcoholic beverages for on- or off-premise consumption.

- Q. **Alley.** A public or private right-of-way, twenty (20) feet or less in width, primarily designed for secondary access to the rear or side of those properties whose principal frontage is on another street. Buildings facing an alley shall not be construed as satisfying the requirements of these regulations related to frontage on a dedicated street.
- R. **All-Weather Surface.** An improved, dust free, surface that is constructed of concrete, asphalt or asphaltic concrete, permeable paving, driveway pavers, pavers, or similar impermeable material, in accordance with common engineering practices for the associated application, meeting the standards of this Code. Engineered, pervious, cellular surfaces may be considered for storage yards; overflow parking for event centers or sports facilities if the first fifty (50) feet of parking area in front of the street is paved. The cellular surface must be installed per the manufacturer's specifications. Crushed rock, gravel, or other material shall not be considered as an all-weather surface.
- S. **Alteration.** Any construction or renovation to an existing structure other than repair or addition.
- T. **Animal Feeding Operation.** "Animal feeding operation" means a location where beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve-month period and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the location. Two (2) or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other or if they utilize a common area or system for the disposal of livestock waste.
- U. **Animal Husbandry.** The use of land for dairying, animal raising, and pasturage and the necessary accessory uses; provided, however, that such accessory uses shall be secondary to that of normal animal husbandry activities.
- V. **Animal Unit.** Animal unit shall mean a unit of measurement for any livestock operation calculated by adding the following numbers: The number of slaughter and feeder cattle multiplied by 1.0, plus the number of cow/calf pairs multiplied by 1.2, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing fifty-five (55) pounds or more multiplied by 0.4, plus the number of weaned pigs weighing less than 55 pounds multiplied by 0.04, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0, plus the number of chickens multiplied by 0.01, plus the number of turkeys multiplied by 0.02, plus the number of ducks multiplied by 0.2. For immature dairy cattle or species not listed, the number of animal units shall be calculated as the average weight of the animals, divided by one thousand (1,000) pounds, multiplied by the number of animals.
- W. **Appurtenant Structure.** shall mean an accessory structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. For floodplain management purposes, an appurtenant structure is eight hundred (800) square feet or less.
- X. **Architect.** means a person who is licensed by the State of Nebraska to practice architecture.
- Y. **Architectural Feature.** The architectural elements embodying style, design, general arrangements and components of all the outer surfaces of any improvements, including, but not limited to, the kind, color and texture of the building materials and the style and type of all windows, doors, lights, signs, and other fixtures apparent to a structure.
- Z. **Area of Shallow Flooding.** means a designated AO zone on the Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- AA. **Area of Special Flood Hazard.** is the land in the flood plain within a community subject to a one (1)1 percent or greater chance of flooding in any given year also known as Special Flood Hazard Area (SFHA).
- BB. **Arterial.** A street that serves or is designed to serve, as a connection between uses which generate heavy traffic volumes or between other arterial streets.
- CC. **Artisan Manufacturing.** On-site production of goods by hand, involving the use of hand tools and small-scale, light mechanical equipment. Typical uses include food and beverage production such as artisan bakeries, craft distilleries,

craft breweries, caterers; small scale manufacturing of artisan goods, such as woodworking, ceramic studios, jewelry manufacturing, and similar types of arts and crafts, or similar very small-scale manufacturing uses that have no negative external impacts on surrounding properties. This land use includes the design, processing, fabrication, assembly, treatment and packaging of products; as well as the incidental storage, sales and distribution of such products.

- DD. **Artisan Workshop.** A small -scale workshop for the preparation, specialty arts, crafts or specialty foods, such as leather, glass, wood, paper, ceramic, textiles, yarn products, specialty foods and baked goods. Articles or goods are produced, assembled, refurbished, or refinished on a custom or individual basis using hand tools or small-scale mechanical equipment in which all storage and work takes place indoors.
- EE. **Attached Sign.** Any sign which is physically connected to and derives structural support from a building or building appurtenance.
- FF. **Attached Single Family.** Two (2) dwelling units, each on their own lot, that share a common fire-rated wall.
- GG. **Attic.** The space between the ceiling framing of the top story and the underside of the roof.
- HH. **Auto Sales and Service Establishment.** means a building, part of a building or premises used for the sale or lease of automobiles, trucks, motorcycles, vans, straight trucks, or associated parts and accessories, and may include the servicing and repairing of motor vehicles.
- II. **Automated Teller Machine.** A mechanized consumer banking device operated by the financial institution for the convenience of its customers, whether outside or in an access-controlled facility. ATMs located within a building shall be considered accessory to the principal use unless the ATM is likely to generate traffic independent from the principal use.
- JJ. **Automobile.** Vehicles designed to carry ten (10) passengers or less and use for the transportation of persons.
- KK. **Awning.** An architectural projection that provides weather protection, identity or decoration and is partially or wholly supported by the building to which it is attached. An awning is comprised of a lightweight frame structure over which a covering is attached.
- LL. **Awning Sign.** A sign that is located or printed on an awning.

## 11-1202. “B” Definitions”

- A. **Banner.** A flexible substrate on which copy or graphics may be displayed.
- B. **Bar.** An establishment or part of an establishment open to the general public primarily devoted to the selling or serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.
- C. **Base Flood.** means the flood having a one (1) percent chance of being equaled or exceeded in any given year.
- D. **Base Flood Elevation.** means the elevation to which floodwaters are expected to rise during the base flood.
- E. **Basement.** The portion of a building having its floor subgrade (below ground level) on all sides.
- F. **Bicycle Lanes.** Areas within the street right-of-way designated specifically for use by bicycles.
- G. **Block.** An area of land surrounded on all sides by streets or other transportation rights-of-way or by physical barriers such as water bodies or public open spaces. Blocks are normally divided into lots.
- H. **Block Face.** That portion of a block or tract of land abutting one (1) side of a street and lying between the closest intersecting streets, or intersecting streets and other transportation rights-of-way, physical barrier such as water body, or public open space.

- I. **Block Length.** The distance as measured along front property lines between intersecting streets, or intersecting streets and other transportation rights-of-way, physical barrier such as water body, or public open space.
- J. **Board of Adjustment.** The City of Fremont Board of Adjustment.
- K. **Brewery/Winery/Distillery.** An establishment primarily engaged in brewing fermented malt beverages including beer, ale, malt liquors, and nonalcoholic beer (brewery), manufacturing and bottling wine on the premises (winery), or manufacturing, by distillation, intoxicating spirits on the premises (distillery).
- L. **Buffer.** Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically and visually separate one use or property from another in order to mitigate the impacts of noise, light, or other nuisance.
- M. **Buildable Area.** The area of a lot remaining after the minimum yard and open space requirements have been met.
- N. **Building.** Building” means any structure having a roof supported by columns or walls, designed or used for the housing or enclosure of persons, animals, or property of any kind.
- O. **Building Code.** The code or codes governing the erection and maintenance of buildings and structures, as adopted and amended from time to time, by the City of Fremont.
- P. **Building Coverage.** The portion of a lot that is covered by principal and accessory buildings and/or structures.
- Q. **Building Frontage.** Those building elevations that face upon a road or parking area between the building and the road.
- R. **Building Height.** The vertical distance measured from the mean elevation of the finished lot grade along the front yard of the structure to the mean elevation of the roof.
- S. **Building Official.** Building official means a person designated by the City having responsibility for the public safety and welfare and the enforcement of building codes with regard to buildings and other structures within such person's jurisdiction

### 11-1203. “C” Definitions”

- A. **Campground.** An area rented to the public for transient lodging in a camping unit.
- B. **Camping Unit.** Any single temporary shelter four hundred (400) square feet or less in area, except sleeping bags, bed rolls, and hammocks, used for camping at a personal camp site. Camping units include but are not limited to a tent, travel trailer, recreational vehicle ("RV"), camper, or other similar form of shelter.
- C. **Canopy Sign.** A sign that is located or printed on a canopy projecting from the building.
- D. **Canopy Tree.** A woody plant (deciduous or evergreen) whose mature height is at least thirty (30) feet and the branch structure allows passage of people, animals and/or vehicles upon the land beneath.
- E. **Carwash.** The use of a site for automated or manual washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.
- F. **Cemetery.** Shall mean land used or intended to be used for the burial of human or animal remains and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.
- G. **Changeable Copy Message Center.** A sign or portion thereof on which the copy or symbols change, either manually by means of placement of letters or symbols on a panel mounted in or on a track system, or electrically activated by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination of electrically activated changeable copy message centers may be integral to the components, such as characterized by lamps or light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display.

- H. **Channel.** A natural or artificial depression of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water.
- I. **Charging Station.** A device or station that provides power to charge the batteries of an electric vehicle.
- J. **Child Care.** Shall mean the care and supervision of children in lieu of parental supervision.
- K. **Child Care Center.** means a child care program licensed to provide child care for thirteen (13) or more children.
- L. **City.** The City of Fremont, Nebraska.
- M. **City Administrator.** The chief administrator of the City.
- N. **City Council.** The City of Fremont City Council.
- O. **City Staff.** Members of the staff of the City who are authorized by the City Administrator to process or decide applications for development approval.
- P. **Cluster.** A development pattern or design technique in which lots or buildings are concentrated in specific areas on a site allowing the remaining land to be used for recreation, open space, and/or the preservation of natural resources.
- Q. **Coarse Aggregate.** A granular material, such as sand, gravel, crushed stone, crushed hydraulic-cement concrete, or similar material, the particles of which are predominantly retained on the 3/8-inch (9.5 mm) sieve.
- R. **Collector Street.** A street that serves or is designated to serve as the connection from minor streets to the arterial street system, such as the main entrance street of a residential development, or as a secondary connection between arterial streets.
- S. **College.** An institution for post-secondary undergraduate educations, public or private, offering courses in general, technical, or religious education and not operated for profit. It operates in buildings owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities, and sororities, but not including colleges or trade schools operated for profit.
- T. **Colocation.** The use of a single support structure and/or site by more than one (1) communications provider.
- U. **Commencement of Construction.** The date that a permit or other written approval required to be issued by the City has been issued, and work has commenced under such permit. This is recognizable upon an inspection of the property and which work is of a nature and character that reflects a good faith intention to continue the work until completion, such as the clearing, grading or excavation, and/or the placement of erosion and sediment control measures.
- V. **Commercial Message.** Any sign wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.
- W. **Communication Services.** Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services or broadcasting or communication towers. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities.
- X. **Composting Facility.** A site on which decomposition processes are used on solid waste (including leaves, grass, manures, and nonmeat food production wastes received from residential, commercial, industrial non-hazardous, and community sources, but not including bio-solids) to produce compost. Composting facilities do not include compost bins that are used exclusively to compost household and/or landscaping waste on, and for, an individual residential lot or tract.
- Y. **Comprehensive Plan.** The adopted official statement of a legislative body of a local government that sets forth (in words, maps, illustrations, and/or tables) goals, policies, and guidelines intended to direct the present and future physical, social,

and economic development that occurs within its planning jurisdiction and that includes a unified physical design for the public and private development of land and water.

- Z. **Concentrated Animal Feeding Operation.** Shall mean an animal feeding operation that stables or confines animals as defined or designated by Title 130 of the Nebraska Administrative Code.
- AA. **Conditional Use.** A use which, because of its potential impacts, may be permitted only after approval of a conditional use permit under the approval procedures of this UDC. Conditional uses are issued for uses of land and shall be transferable from one owner of the land to another.
- BB. **Condominium.** Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.
- CC. **Conservation.** The management of natural resources to prevent waste, destruction, or degradation.
- DD. **Conservation Easement.** A nonpossessory interest of a holder in real property imposing limitations or affirmative obligations for conservation purposes or to preserve the historical, architectural, archaeological, or cultural aspects of real property.
- EE. **Contractor.** Any person performing or managing construction work at a construction site, including, but not limited to, any construction manager, general contractor or subcontractor, and any person engaged in any one or more of the following: earthwork, pipework, paving, building, plumbing, mechanical, electrical, landscaping or material supply.
- FF. **Copy.** The words, graphic content, or message displayed on a sign.
- GG. **Corporate Limits.** Corporate Limits shall mean the limits of the city and all such lands duly annexed and made a part thereof.
- HH. **County.** The respective county of either Dodge, Nebraska, or Douglas, Nebraska, for which the subject property is located.
- II. **Court.** A cul-de-sac of eight (8) lots or less that is not interrupted by a through roadway.
- JJ. **Craft Brewery.** A small facility licensed by the State of Nebraska to produce a maximum of twenty thousand (20,000) barrels of beer per year.
- KK. **Cul-de-Sac.** A street that has only one (1) end open to vehicular traffic and the other end terminates in a vehicular turn-around.
- LL. **Cut-Off.** The point at which all light rays emitted by a lamp, light source, or luminaire are intercepted by a shield that prevents their continuation.

#### 11-1204. "D" Definitions

- A. **Deciduous Tree.** Trees and shrubs that, unlike evergreens, lose their leaves and become dormant during the winter.
- B. **Deck.** A structural platform, without a roof, directly adjacent to a principal building, which has an average elevation of thirty (30) inches or greater from finished grade.
- C. **Dedication.** The transfer of private property to public or common ownership for a public purpose. The transfer may be in fee simple interest or less than fee simple interest, including easements. Dedication requires the acceptance of the interest to be complete.
- D. **Density.** The number of dwelling units allowed per acre of land.

- E. **Developer.** The legal or beneficial owner or owners of a lot or tract, or of any land included in a proposed development plan including the holder of an option or contract to purchase, or other persons having enforceable proprietary interest in such land, having the intention of preparing raw land for the construction of buildings or causing to be built physical building space.
- F. **Development.** Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- G. **Development Approval.** Any written authorization from a governmental entity that authorizes the commencement of development.
- H. **Director of Planning.** The chief administrator of the City's Planning Department.
- I. **Director of Public Works.** The chief administrator of the City's Public Works Department.
- J. **Distribution Facility.** A type of warehouse that receives, stores, and distributes goods quickly, primarily focusing on order fulfillment and efficient movement of inventory.
- K. **District.** A designated area of the city or its extraterritorial jurisdiction within which certain zoning regulations and requirements, or various combinations thereof, apply as set forth in this title.
- L. **Disturbed Area.** Area of the land's surface disturbed by any work or activity upon the property by means including, but not limited to grading, excavating, stockpiling soil, fill, or other materials, clearing, vegetation removal, removal or deposit of any rock, soil or other materials, or other activities which expose soil. Disturbed area does not include the tillage of land that is zoned for agricultural use.
- M. **Double Frontage Lot.** A lot or tract, other than a corner lot, having frontage on two (2) streets, private ways, or courts. Primary access shall be restricted on a double frontage lot to the minor of the two (2) streets or to the front line as determined at the time of platting or as defined by this UDC also known as a through lot.
- N. **Drainage.** Surface water runoff; and the removal of surface water or groundwater from land by drains, grading, or other means that include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply, and the prevention or alleviation of flooding.
- O. **Drainage Easement.** Land in which an easement has been dedicated that is, planned, proposed, or required to be devoted for use as a drainage system.
- P. **Drive.** A curvilinear roadway of more than one thousand (1,000) feet in length.
- Q. **Drive Aisle.** A vehicular traffic way or lane within an off-street parking area, used as a means of ingress to/egress from parking spaces.
- R. **Drive Approach.** An area of the public right-of-way located between the roadway and property adjacent to the public right-of-way that is intended to provide access for vehicles from the roadway to the adjoining property.
- S. **Drive Through.** A retail and service facility that accommodate the patrons' motor vehicles, from which the occupants of the motor vehicle may make purchases or transact business.
- T. **Driveway.** A vehicular traffic way or lane connecting the drive approach to the off-street parking area for the purposes of ingress to/egress from the lot or tract being served.
- U. **Duplex.** A building containing two (2) dwelling units, each with its own dedicated entrance, joined to one another at one (1) or more sides by a common wall. A duplex may be located on one (1) lot or two (2) lots with the common lot line falling along a fire resistant party wall.

- V. **Dwelling.** A building, or portion thereof, designed or used exclusively for residential occupancy by one (1) or more persons, with facilities for living, sleeping, cooking and dining. including single-unit dwellings, duplex dwellings, townhomes and multi-unit dwellings, but not including hotels, motels, boarding or lodging houses.

### 11-1205. “E” Definitions”

- A. **Easement.** means a nonpossessory property interest that provides a right to enter, use, or enjoy real property owned by or in the possession of another; and imposes on the owner or possessor a duty not to interfere with the entry, use or enjoyment permitted by the instrument creating the easement or, in the case of an easement not established by express grant or reservation, the entry, use, or enjoyment authorized by law.
- B. **Educational Facility.** A public, parochial, or private institution that provides educational instruction to students.
1. **Primary and Secondary.** Educational facilities including elementary schools, junior high schools, and senior high schools as well as customary accessory uses such as unlit athletic fields, playgrounds, and temporary classrooms.
  2. **College, University, and Vocational.** Facilities for post-secondary education including classrooms, laboratories, offices, dining halls, auditoriums, stadiums, and field houses.
- C. **Effective Date.** The date that this UDC is adopted, amended, or the date land areas became subject to the regulations contained in this UDC as a result of such adoption or amendment.
- D. **Engineer.** Engineer shall mean a professional engineer licensed by the State of Nebraska to practice engineering.
- E. **Equipment Rental, Sales, and Service Establishment.** Establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment, and the rental of mobile homes. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.
- F. **Erosion.** The removal of soil through the actions of water or wind.
- G. **Erosion Control.** Measures that prevent soil erosion to the maximum extent practicable.
- H. **Evergreen Tree.** Any plant that retains its leaves throughout the year and into the following growing season.
- I. **Excavating.** The process of altering the natural (grade) elevation by cutting or filling the earth, or any activity by which soil or rock is cut, dug, quarried, uncovered, removed, displaced, or relocated.
- J. **Existing Mobile Home Park or Subdivision.** A mobile home park or subdivision for which the construction of facilities for servicing the lots on which the mobile 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.
- K. **Expansion to an Existing Mobile Home Park or Subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile 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).
- L. **Extraction.** To draw out or forth; hence to derive as if by drawing out; removal of physical matter in a solid, liquid, or gaseous state from its naturally occurring location; the initial step in use of a natural resource; examples include petroleum and natural gas wells, shale and coal mines, gravel pits, timber cutting.
- M. **Extractive Industry.** On-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operation, mining, and soil mining. Specifically excluded from this use is grading and removal of dirt associated with an approved site plan or subdivision or excavations associated with, and for the improvement of, a bona fide agricultural use.

**11-1206. “F” Definitions”**

- A. **Facade.** An exterior wall, or face, of a building exposed to public view from the building's exterior.
- B. **Family.** Any group of individuals living together as the functional equivalent of a family where the residents may share living expenses, chores, eat meals together and are a close group with social, economic, and psychological commitments to each other. A family includes, for example, the residents of residential care facilities and group homes for people with disabilities. A family does not include larger institutional group living situations such as dormitories, fraternities, sororities, monasteries, or nunneries.
- C. **Farm.** Any land or buildings or structures on or in which agriculture and farming operations are carried on, including the residence or residences of owners, occupants, or employees located on such land.
- D. **Farmers Market.** The seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.
- E. **Feather Sign.** A flexible or rigid pole to which one side of a flexible fabric, generally in the shape of a feather or similar shape, is attached, and which upon which temporary sign copy is displayed.
- F. **Fence.** A structure serving as an enclosure, barrier, or boundary.
- G. **Filling.** The depositing on land, whether submerged or not, sand, gravel, earth, or other materials of any composition whatsoever.
- H. **Final Drainage Plan.** A plan that indicates the drainage characteristics of the completed project. The plan will also indicate the future conditions post construction under which Best Management Practices (BMP's) will be maintained.
- I. **Final Plat.** A map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas, and other dimensions of land.
- J. **Financial Institution.** An establishment where the principal businesses are the receipt, disbursement, or exchange of funds and currencies, such as banks, savings and loans, or credit unions.
- K. **Flag.** A piece of cloth, varying in size, shape, color, and design, usually attached at one edge to a staff or cord, and used as the symbol of a nation, state, or organization. This term does not include flag signs.
- L. **Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas.
- M. **Flood Fringe.** That area of the floodplain, outside of the floodway, that has a one (1) percent chance of flood occurrence in any one year.
- N. **Flood Insurance Rate Map.** 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.
- O. **Flood Insurance Study.** 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.
- P. **Floodplain.** Any land area susceptible to being inundated by water by the .01% chance of flood from any source. Floodplain includes flood fringe and floodway. Floodplain and special flood hazard area are the same for use by this ordinance.
- Q. **Floodplain Administrator.** The City of Fremont Floodplain Administrator.

- R. **Floodproofing.** 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.
- S. **Floodway or Regulatory Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- T. **Freeboard.** 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.
- U. **Freestanding Sign.** A sign that is not attached to a building.
- V. **Funerary Services.** A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles; and (e) facilities for cremation.

### 11-1207. "G" Definitions

- A. **Gaming Services.** The charitable gaming activities authorized by the State of Nebraska for nonprofit organizations including bingo, the sale of pickle cards (pull-tabs), ticket drawings for either cash prizes (lotteries) or merchandise prizes (raffles), and keno lotteries.
- B. **General Retail.** Stores and shops providing goods for sale at retail in the customary manner and which cannot be categorized into one (1) of the other defined Retail Use categories in this UDC, provided that all storage and sales activity shall be contained within a building.
- C. **General Service.** Establishments primarily engaged in rendering services to individuals and business establishments which services cannot be categorized into one (1) of the other defined Service Use categories in this UDC. The services are typically provided without the retail sale of products or such product sales are incidental to the service-driven purposes of the establishment, such as a beauty salon or barber shop.
- D. **Glare.** The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility.
- E. **Grade.** The lowest part of elevation of the finished surface of the ground surface, paving, or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.
- F. **Grading.** The act of excavation or filling or combination thereof or any leveling to a smooth horizontal or sloping surface on a property, but not including normal cultivation associated with an agricultural operation.
- G. **Gross Density.** A calculation of density acquired by dividing the number of dwelling units by the site area including streets, schools, parks, etc., expressed as dwelling units per acre.
- H. **Gross Floor Area.** The sum of the horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or in the case of a common wall separating two (2) or more buildings or spaces, from the centerline of such common wall, not including space where the floor-to-ceiling height is less than seven (7) feet.
- I. **Groundcover.** Grasses, shrubs, trees, and other vegetation which hold and stabilize soils.
- J. **Groundwater.** Subsurface water in soils and geologic formations that are fully saturated.

**11-1208. “H” Definitions”**

- A. **Hazardous Materials.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- B. **Health Care Facility.** Health care facility means an ambulatory surgical center, an assisted-living facility, a center or group home for the developmentally disabled, a critical access hospital, a general acute hospital, a health clinic, a hospital, an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health substance use treatment center, a nursing facility, a PACE center, a pharmacy, a psychiatric or mental hospital, a public health clinic, a rehabilitation hospital, or a skilled nursing facility.
- C. **Health Care Service.** Health care service means an adult day service, a children’s day health service, a home health agency, a hospice or hospice service, a PACE center, or a respite care service. Health care service does not include an in-home personal services agency.
- D. **Health Clinic.** Health Clinic shall mean a facility where advice, counseling, diagnosis, treatment, surgery, care, or services relating to the preservation or maintenance of health are provided on an outpatient basis for a period of less than twenty-four (24) consecutive hours to persons not residing or confined at such facility. Health clinic includes, but is not limited to, an ambulatory surgical center or a public health clinic.
- E. **Health Club.** A facility designed for the major purpose of physical fitness or weight reducing which includes, but is not limited to, running, jogging, aerobics, weight lifting or weight resistance machines, court/field sports, and swimming. Uses may also include whirlpools, saunas, showers, locker rooms, and related accessory uses.
- F. **Heavy Industry.** Manufacturing or other enterprises with significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process.
- G. **Heliport.** Any landing area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling, and emergency service facilities.
- H. **Helistop.** Any landing area used for the taking off or landing of private helicopters for the purpose of picking up and discharging of passengers or cargo. This facility is not open to use by any helicopter without.
- I. **Herbaceous Perennials.** Plants with non-woody stems whose above-ground growth largely or totally dies back during winter months but whose underground plant parts (roots, bulbs, etc.) survive.
- J. **Highest Adjacent Grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- K. **Historic Property.** A district, site, building, structure or object significant in American history, architecture, engineering, archeology or culture at the national, state, or local level.
- L. **Historic Structure.** Any structure that is:
  1. 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;
  2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;

3. 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
  4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - a. Directly by the Secretary of the Interior in states without approved programs; or
    - b. By an approved state program as determined by the Secretary of the Interior.
- M. **Hobby Garage.** An industrial building used primarily for personal storage and for the conduct of noncommercial hobby activities such as but not limited to personal automobile and motorcycle restoration, or woodworking. Amenities such as seating areas and kitchenettes may be included but sleeping areas are prohibited.
- N. **Home Child Care Facility.** A home child care facility shall mean a child care program in a licensee's residence which is licensed by the State of Nebraska to care for a specific number of children under the age of 13, not to exceed twelve (12).
- O. **Home Health Agency.** Home health agency means a person or any legal entity which provides skilled nursing care or a minimum of one (1) other therapeutic service as defined by the Nebraska Division of Public Health on a full-time, part-time or intermittent basis to persons in place of temporary or permanent residence used as the person's home.
- P. **Home Improvement Center.** An establishment providing for the sale or rental of building supplies, construction equipment, or home decorating fixtures and accessories. This term includes a lumber yard or a contractors' building supply business and may include outdoor storage or tool and equipment sales or rental. This term does not include an establishment devoted exclusively to the retail sale of paint, wallpaper, or hardware or activities classified under vehicle/equipment sales and services, including vehicle towing services.
- Q. **Home Occupation** means any occupation, trade, profession, personal service, day care or craft carried on by an occupant of a residential building as a secondary use to the residential use of the building and which complies with the requirements of these regulations.
- R. **Hospital.** Hospital means a facility where diagnosis, treatment, medical care, obstetrical care, nursing care, or related services are provided on an outpatient basis or on an inpatient basis for a period of more than twenty-four (24) consecutive hours to persons who have an illness, injury, or deformity or to aged or infirm persons requiring or receiving convalescent care.
1. Hospital includes a facility or part of a facility which provides space for a general acute hospital, a rehabilitation hospital, a long-term care hospital, a critical access hospital, or a psychiatric or mental hospital.
  2. Hospital does not include a health care practitioner facility in which persons do not receive care or treatment for a period of more than twenty-four (24) consecutive hours.

### 11-1209. "I" Definitions

- A. **Impervious.** Any material which prevents, impedes, or slows infiltration or absorption of storm water directly into the ground at the rate of absorption of vegetation-bearing soils, including but not limited to building, asphalt, concrete, gravel, and other surfaces.
- B. **Impervious Surface Coverage.** The portion of a lot that is covered by impervious surfaces that impede infiltration of rainfall into the underlying soil profile. However, the interior of a swimming pool shall not be considered impervious surface.
- C. **Improved.** Any man-made, immovable item which becomes part of, is placed upon, or is affixed to land, or has been altered to better suit a particular purpose.
- D. **Improvement.** An act of improving or the state of being improved; a change or addition by which a thing is improved.

- E. **Indoor Agriculture.** Indoor Agriculture means the production of plants, fish, worms and other similar products using hydroponics, aeroponics, mist, aquaculture, aquatic organisms, aquaponics, vermiculture and vermicomposting.
- F. **Indoor Commercial Amusement.** The provision of entertainment or games of skill to the general public for a fee and that is wholly enclosed in a building, including but not limited to movie theaters, bowling alleys, billiard parlors, indoor miniature golf and arcades. This use does not include adult businesses.
- G. **Indoor Recreation.** Uses that provide active or passive recreation opportunities indoors for the public (open to the community) or residents of a subdivision or development.
- H. **Industrial Activity.** Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26(b)(14).
- I. **Intensity.** Relative measure of development impact as defined by characteristics such as the number of dwelling units per acre, amount of traffic generated, and amount of site coverage.
- J. **Institutional Residential.** Institutional housing combined with common food service, nursing, counseling, health care, or comparable services, including assisted living facilities, congregate care, nursing homes, and homeless shelters. The phrase "institutional residential" includes:
  1. Facilities in which residents live in an institutional environment and are, generally, under the care or control of staff;
  2. In-patient drug and alcoholism rehabilitation centers, in which residents have institutional care, or are treated by staff in an institutional setting, rather than living independently; and
  3. Any sheltered care, group care, group home, or residential substance abuse facility.

### 11-1210. "K" Definitions

- A. **Kennel.** Boarding, care, or training services for dogs, cats and similar small animals, reptiles and birds that can include overnight care. An establishment where animals owned by another person are temporarily boarded for either compensation or remuneration of any sort. Typical uses include boarding kennels, pet motels, dog-training centers, animal day-care facilities or licensed catteries. This use does not include zoos or animal hospitals operated by veterinarians duly licensed under the law.
- B. **Kennel, Pet Daycare.** Boarding, care, or training services for dogs, cats and similar small animals, reptiles and birds that cannot include overnight care. An establishment where animals owned by another person are temporarily boarded for either compensation or remuneration of any sort. Typical uses include boarding kennels, pet motels, dog-training centers, animal day-care facilities or licensed catteries. This use does not include zoos or animal hospitals operated by veterinarians duly licensed under the law.

### 11-1211. "L" Definitions

- A. **Land Development.** Any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.
- B. **Land Surveyor.** A person licensed and engaged in the practice of land surveying
- C. **Landfill.** A lot or tract, or part thereof, used primarily for the disposal by abandonment, dumping, burial, burning, or other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or nontoxic or non-biodegradable waste material of any kind.
- D. **Landscaped Area.** An area of a lot or tract permanently devoted and maintained to the growing of shrubbery, grass, and other plant material.

- E. **Landscaping.** The design and installation of plant material such as living trees, shrubs, and ground cover, in formal or natural arrangements.
- F. **Land Use.** The occupation or use of land or water area for any human activity or any other purpose.
- G. **Lane.** A cul-de-sac of nine or more lots that is not interrupted by a through roadway.
- H. **Large Animal.** An animal larger than the largest breed of dog. This term includes, but is not limited to, horses, cows, and other animals customarily kept in corrals, stables, pens, or similar enclosures.
- I. **Large Animal Boarding Facility.** Any structure, land, or combination thereof used, designed, or arranged for the boarding, breeding or care of large animals.
- J. **Large Animal Veterinary Services.** Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases wherein the animals are limited to large animals and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.
- K. **Light Industry.** Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment, or fabrication of materials and products, from processed or previously manufactured materials. Light industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. A machine shop is included in this category. Also included is the manufacturing of apparel, electrical appliances, electronic equipment, camera and photographic equipment, ceramic products, cosmetics and toiletries, business machines, fish tanks and supplies, food, paper products (but not the manufacture of paper from pulpwood), musical instruments, medical appliances, tools or hardware, plastic products (but not the processing of raw materials), pharmaceuticals or optical goods, bicycles, and any other product of a similar nature. Limited Use. A use that is allowed in a zoning district, subject to standards that mitigate its impact on other uses in the district or that prevent a concentration of the use in a particular area.
- L. **Loading Space.** A paved, off-street space used for loading and unloading from vehicles, except passenger vehicles, in connection with the use of the property on which such space is located.
- M. **Local Street.** A street that is designed and constructed to provide access to individual lots or land uses.
- N. **Lodging House.** A single-family detached dwelling where more than two (2) but fewer than six (6) rooms are provided for lodging for definite periods of time. Meals may or may not be provided, but there is only one (1) kitchen facility. No meals are provided to guests not residing on the premises.
- O. **Lot.** A tract of land, designated by metes and bounds, land survey, minor land division, or plat and recorded in the office of the County Register of Deeds.
- P. **Lot Area.** The area of a lot or tract within the lot or tract boundaries.
- Q. **Lot Coverage.** The ratio of impervious surface area, to a unit of land area.
- R. **Lot Depth.** The average horizontal distance between the front lot line and the rear lot line.
- S. **Lot Line.** The property line(s) bounding a lot or tract.
- T. **Lot Line, Front.** A lot line(s) abutting a street from which the property has its principal entrance.
- U. **Lot Line, Rear** means that boundary of a lot, which is most distant from and is parallel, or approximately parallel, to the front lot line.
- V. **Lot Line, Side** means any boundary of a lot that is not a front or rear lot line.
- W. **Lot Line, Street Side.** A side lot line(s) separating a lot from a street.

- X. **Lot Line, Interior.** A side lot line common with another lot.
- Y. **Lot of Record.** A lot that is part of a recorded subdivision that has been recorded at the county recorder's office containing property tax records.
- Z. **Lot Width.** The horizontal distance measured between the side lot lines of a lot or tract, at right angles to its depth along a straight line parallel to the front lot line at the minimum required setback line.
- AA. **Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- BB. **Lumberyard.** An establishment where lumber and other building materials such as brick, tile, cement, insulation, roofing materials, and the like are sold at retail. The sale of items, such as heating and plumbing supplies, electrical supplies, paint, glass, hardware, and wallpaper is permitted at retail and deemed to be customarily incidental to the sale of lumber and other building materials at retail.

### 11-1212. "M" Definitions

- A. **Maintain.** To preserve and care for a structure, improvement, condition, or area so that it remains attractive, safe, and presentable and carries out the purpose(s) for which it was installed, constructed, or required.
- B. **Major Automotive Repair Services.** General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including body work, framework, welding, and major painting service.
- C. **Manufactured Home.** Either (a) a factory-built structure which is to be used as a place for human habitation, which is not constructed with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or (b) a modular housing unit as defined in [NRS] Section 71-1557 bearing a seal in accordance with the Nebraska Uniform Standards for Modular Housing Units Act.
- D. **Manufactured Home Park.** A lot or tract which has been planned and improved for the placement of mobile homes for residential use, with single control or ownership.
- E. **Manufactured Home Subdivision.** A lot or tract which has been planned and improved for the placement of mobile homes for residential use on individual lots with private ownership of said lots.
- F. **Menu Board.** A changeable sign that allows a retailer to list products and prices.
- G. **Message Center.** An electronically or manually variable message sign.
- H. **Microbrewery.** A small licensed facility producing a maximum of twenty thousand (20,000) barrels of beer per year, primarily for consumption on premise including a standard restaurant or bar or tasting room allowing customers to sample products produced on-site.
- I. **Microdistillery.** A distillery that is licensed to distill liquor on the premises and produces one hundred thousand (100,000) or fewer gallons of liquor annually. A restaurant, bar or tasting room may be included that allows customers to sample products produced on-site.
- J. **Minor Automotive Repair Services.** The replacement of any part or repair of any part that does not require removal of the engine head or pan, engine transmission or differential; incidental body and fender work, minor painting and upholstery service. Above stated is applied to passenger automobiles and trucks not in excess of seven thousand (7,000) pounds gross weight.

- K. **Mixed Use.** The development of a lot or tract with two (2) or more different uses such as, but not limited to, residential, office, retail, public, or entertainment, in a compact urban form.
- L. **Mixed Use Building.** A building or structure that contains two (2) or more occupancy groups.
- M. **Mixed Use Development.** Development in which a combination of uses are located on the same lot or tract.
- N. **Mobile Home.** A structure, transportable in one (1) or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length or which when erected on-site is three-hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure, but not bearing an appropriate seal which indicates that it was constructed in accordance with the standards of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the Nebraska Uniform Standards for Modular Housing Units Act, or the United States Department of Housing and Urban Development; or not otherwise satisfying the definition of a Manufactured Home.
- O. **Modular Housing Unit.** Modular housing unit means any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units, containing facilities for no more than one (1) family, not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities. Modular housing units shall be taxed as real estate.
- P. **Monument.** A boundary marker, as required by this UDC, intended to fix the physical location of property lines.
- Q. **Monument Sign.** A ground sign with low overall height.
- R. **Motor Vehicle.** Every vehicle that is self-propelled.
- S. **Multifamily.** A building containing at least three (3) dwelling units separated by a common fire barrier, with each dwelling accessible from a shared entrance or hallway.
- T. **Multitenant Retail Building.** A single building in which retail, office or service tenants lease stalls or suites out of which to conduct their business.
- U. **Multitenant Shopping Center.** A shopping center in which tenants lease or own individual bays of a building or free-standing outbuildings. Frequently referred to as a "retail strip center".

### 11-1213. "N" Definitions"

- A. **Native Grasses.** Grasses that are native to, or adapted to, the State of Nebraska, not including noxious weeds.
- B. **Natural Area.** Undeveloped or wild lands and those lands preserved or restored and managed for their natural features, including but not limited to parks, forests, refuges, grass- lands, wetlands and shorelines on public and private lands.
- C. **Net Floor Area.** The gross floor area less the floor area not directly devoted to principal or accessory uses such as mechanical rooms, stairwells, and elevators.
- D. **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.
- E. **New Mobile Home Park or Subdivision.** A mobile home park or subdivision for which the construction of facilities for servicing the lots on which the mobile 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.
- F. **Noncommercial Message.** Any sign wording, logo, or other representation that is not defined as a commercial message.

- G. **Nonconforming.** A lot, tract, use, building, structure, or otherwise, which was lawful prior to the adoption, revision, or amendment of these regulations but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of these regulations.
- H. **Nonstandard Use.** Nonstandard use shall mean the category of nonconformance consisting of premises occupied by buildings, structures or uses which existed immediately prior to the effective date of this UDC or becomes nonconforming through a change in this UDC or district boundaries, which fails to comply with the minimum requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which it is located, even though the use of the premises conforms to the permitted uses within the district as set out in this UDC.
- I. **Non-Storm Water Discharge.** Any discharge to the storm drain system that is not composed entire of storm water.
- J. **Nursery Retail and Wholesale.** An enterprise that conducts the retail and/or wholesale sale of plants grown on the premises. The terms also include, as an accessory use, the sale of a limited selection of items (e.g., soil, planters, pruners, mulch, lawn or patio furniture, garden accessories, etc., but not including power equipment) that are directly related to the care and maintenance of landscapes.

### 11-1214. "O" Definitions

- A. **Occupancy.** The use of land, buildings, or structures.
- B. **Office.** A room or group of rooms used for conduction the affairs of a business, profession, service industry, or government.
- C. **Off Premise Sign.** Any sign that is not appurtenant to the use of the property, a product sold, or the sale or lease of the property on which it is displayed, and that does not identify the place of business as purveyor of the merchandise, services, etc., advertised upon the sign.
- D. **On Premise Sign.** A communication device whose message and design relates to a business, an event, goods, profession, or service being conducted, sold, or offered at the same location as where the sign is located.
- E. **On-Site Traffic Directional Sign.** All signs, signals, parking meter instruction plates, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.
- F. **Open Space.** Land that is left undeveloped as part of a natural preservation, recreation, bufferyard, or other open space provision of this UDC. Open space includes common areas like public or private parks, greenbelts, greenways and riparian areas along rivers, creeks, streams, and natural drainageways or around lakes or ponds, and improved storm drainage facilities that are designed as an amenity and accessible and open to the public. Private open space is designed and intended for common use and the enjoyment of the residents of a subdivision or other residential development. Public open space is designed and intended for common use and the enjoyment of the general public.
- G. **Outdoor Amusement.** The provision of entertainment or games of skill to the general public, with or without a fee, where any portion of the activity takes place outside of a building, including but not limited to amusement parks, theme parks, fairgrounds, miniature golf courses, driving ranges, waters slides, sporting facilities and batting cages. This use does not include adult businesses.
- H. **Outdoor Recreation.** Uses that provide active or passive recreation opportunities outdoors for the public (open to the community) or residents of a subdivision or development.
- I. **Outdoor Sign.** A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

- J. **Outdoor Storage.** The storage of any material for a period greater than 24 consecutive hours, including, but not limited to, items for sale, lease, processing, and repair (including vehicles) not in an enclosed building. This term does not include personal automobiles and light trucks that are parked in a residential driveway or parking lot.
- K. **Outlot.** Shall mean a parcel of real property to be included in a final plat having access to at least one (1) public street or private roadway reserved for future building or occupancy after replatting and subdivision, or a parcel reserved for agricultural uses, open space or common facilities.
- L. **Overlay District.** An area where certain additional requirements are superimposed upon a base zoning and where the requirements of the base or underlying zoning district may not be altered.
- M. **Owner.** Any person, agent, firm, corporation, or partnership that alone, jointly, or severally with others: (1) has legal or equitable title to any premises, dwelling, or dwelling unit, with or without accompanying actual possession thereof; or (2) has charge, care, or control of any premises, dwelling or dwelling unit, as agent of the owner or as executor, administrator, trustee, or guardian of the estate of the beneficial owner. The person shown on the records of the recorder of deeds of the county to be the owner of a particular property shall be presumed to be the person in control of that property.

### 11-1215. "P" Definitions"

- A. **Park.** An area open to the general public and reserved for recreational, educational, or scenic purposes.
- B. **Parking Facility.** An area on a lot or within a building, including one (1) or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this UDC. Parking facilities include parking lots, both public and private, and parking structures, both principal and accessory.
- C. **Parking Lot.** An off-street parking facility, at grade, for the temporary storage of motor vehicles.
- D. **Parking Space.** An area for the purpose of parking one (1) motor vehicle, exclusive of parking facility access, drive aisles, or ramps, and meeting the dimensional requirements for a standard parking space set out in this UDC.
- E. **Parkway.** A strip of ground in the right-of-way generally between the sidewalk and curb of a street that is planted with grass.
- F. **Paved.** Permanently surfaced with an all-weather surface.
- G. **Permanent Sign.** A sign attached to a building, structure, or the ground in a manner that enables the sign to resist environmental loads, such as wind, and precludes ready removal or movement of the sign.
- H. **Permit.** One (1) or more documents issued by the City allowing a person to begin an activity provided for in this UDC or other codes, ordinances, and regulatory provisions administered by the City.
- I. **Permitted Use.** A use which is or may be lawfully established in a particular zoning district, provided it conforms with all the requirements applicable to that district(s).
- J. **Person.** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- K. **Personal Camp Site.** An area used by private property owners and their guests for transient occupancy or lodging in a camping unit.
- L. **Pervious.** A surface that allows storm water to infiltrate or percolate into the ground.
- M. **Petition.** A written request for City action or appellate review pursuant to this UDC.
- N. **Place.** A short curvilinear or diagonal roadway less than one thousand (1,000) feet in length.

- O. **Place of Assembly** means land or buildings for the purposes of the congregation of people for deliberation, entertainment, cultural, recreation or similar purposes and includes, but is not necessarily limited to, churches, halls, community facilities, funeral chapels including crematorium on the same site, clubrooms, taverns, restaurants, art galleries, theatres, sports fields, and tourist facilities.
- P. **Planning Commission.** The City of Fremont Planning Commission.
- Q. **Planning Department.** The City of Fremont Planning Department.
- R. **Planned Development.** A land development project comprehensively planned and developed in a single development operation or a definitively programmed series of development operations or phases, which permits flexibility in building siting, mixtures of building types and land uses, usable open spaces, and the preservation of significant natural features.
- S. **Plat.** A document, prepared by a registered land surveyor or engineer, which delineates property lines, and shows the location of monuments and other landmarks for the purpose of identifying property.
- T. **Pole Sign.** A freestanding sign with visible support structures.
- U. **Pollutant.** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particular metals; animal wastes; wastes and residues that result from constructing a building or structure; wastes and residues that result from mobile washing operations; and noxious or offensive matter of any kind.
- V. **Pollution.** The presence in Waters of the State of any substances, contaminants, pollutants, or manmade or man-induced impairment of waters or alteration of the chemical, physical, biological, or radiological integrity of water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation unless authorized by applicable law.
- W. **Porch.** A roofed structure projecting from an exterior wall of a building and having no enclosed features more than thirty (30) inches above its floor.
- X. **Portable Sign.** A sign not permanently attached to the ground or building and readily removable either by hand, or by using ordinary hand tools.
- Y. **Portable Storage Container.** A portable, weather-resistant receptacle designed and used for the storage or shipment of household goods, wares, building materials or merchandise. This term shall not include roll-off containers or storage containers having storage capacity of less than one hundred fifty (150) cubic feet
- Z. **Post-Construction.** The general time period referenced in perpetuity from the approval of final acceptance of the construction phase of any construction activity.
- AA. **Post-FIRM Structure.** 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 {FIRM effective date}, whichever is later.
- BB. **Pre-FIRM Structure.** 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 {FIRM effective date}, whichever is later.
- CC. **Preliminary Plat.** A map of a proposed land subdivision, showing the character and proposed layout of each lot or tract, in sufficient detail to indicate the suitability of the proposed subdivision of land.

- DD. **Premises.** A lot or tract or other division of land, contiguous and under common ownership or control, together with the buildings and structure thereon.
- EE. **Primary Access.** The point at which a lot or tract takes access to a public street system, ordinarily by a drive that connects to the street. Where there are several possible access points, the one located or configured to have the most traffic shall be considered the primary access.
- FF. **Principal Building.** A building in which is conducted the primary or predominant use of the lot or tract on which it is located.
- GG. **Principal Structure.** A structure in which is conducted the primary or predominant use of the lot or tract on which it is located.
- HH. **Principal Use.** The primary or predominant use of land, structure, or building.
- II. **Principally Above Ground.** At least fifty-one (51) percent of the structure is above ground.
- JJ. **Private Club.** Buildings and facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit which inures to any individual and not primarily to render a service which is customarily done as a business.
- KK. **Private Restrictions.** Restrictive codes, covenants, conditions, deed restrictions, servitudes, easements, and other like arrangements between property owners, whether recorded in the public records or not.
- LL. **Private Street.** Any street right-of-way that is privately owned and maintained.
- MM. **Projecting Sign.** A building mounted sign with the faces of the sign perpendicular to the building fascia.
- NN. **Property Line.** A boundary line of a lot or tract.
- OO. **Property Owner** (see Owner).
- PP. **Property Owners' Association ("POA").** A private, nonprofit association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common elements and facilities.
- QQ. **Public Assembly.** A place where people assemble for civic, community, or cultural purposes. The term includes the following:
  1. Civic centers; community centers;
  2. Cultural or arts centers; museums; and
  3. Places of worship.
- RR. **Public Improvement.** Any improvement, facility, or service together with its associate public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy, or similar essential services.
- SS. **Public Street.** Any street right-of-way dedicated to public use or maintained by a Federal, State, or local unit of government.
- TT. **Pylon Sign.** A freestanding sign with visible support structure or with the support structure enclosed with a pole cover.

## 11-1216. "R" Definitions

- A. **Railroad Use.** The occupation and use of land, buildings, and structures for purposes directly connected with rail transportation of articles, goods, and passengers, including such facilities as tracks, sidings, signal devices and structures, shops and yards for maintenance and storage of rail machinery, loading platforms, and passenger and freight terminals, but excluding freight terminals and yards, and similar facilities, which are maintained and operated by the owning railroad or by

a lessee for the purposes auxiliary to rail transportation, or by a lessee for the purposes auxiliary to rail transportation; provided, however, that the operation of such facilities as a hobby or as part of an amusement business shall not be considered a railroad use.

- B. **Recreational Vehicle.** A vehicle built on a single chassis containing four hundred (400) square feet or less, or fifth wheels containing four hundred thirty (430) square feet or less, when measured at the largest horizontal projections, and designed to be self-propelled or towed by another vehicle. A recreational vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel or seasonal use.
- C. **Recycling Facility.** A facility or land use, regardless of name or title, at which recoverable resources, such as newspapers, magazines, glass, metal, plastic materials, tires, grass and leaves, and similar items, except hazardous waste and medical waste are collected, cleaned, sorted, stored, flattened, shredded, dismantled, crushed, bundled, or separated by size, grade, quality, or type, and compacted, baled, or packaged for shipment or delivery for the eventual manufacture of new products.
- D. **Redevelopment.** The destruction of a principal building to an extent that is equal to or greater than fifty (50) percent of its assessed value, followed by reconstruction or repurposing of the land, structure, or building for a type of use for which the original land, structure, or building was not designed.
- E. **Regulatory Flood Elevation.** The base flood elevation (BFE) plus a one (1) foot freeboard factor as specified in this ordinance.
- F. **Resource.** Natural elements relating to land, water, air, plant and animal life, including but not limited to soils, geology, topography, surface and subsurface waters, wetlands, vegetation, and animal habitats.
- G. **Restaurant.** An establishment in which the principal use is the preparation and sale of food and/or beverages.
- H. **Resubdivision.** The subdivision of existing lots or tracts created by a previous subdivision. This term shall also include the consolidation of two (2) or more lots or tracts, or other divisions of land into one (1) or more lots or tracts, or other divisions of land.
- I. **Retail Sales Establishment.** Establishments selling commodities directly to the consumer.
- J. **Retail Service Establishment.** Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use.
- K. **Rezoning** (see Zoning Change).
- L. **Right-of-Way.** An area of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.
- M. **Right-of-Way Manual.** The most current version of the technical standards promulgated by the director of public works, however titled, for the development of infrastructure such as streets, sidewalks, storm water management, water quality, and wetland management.
- N. **Roof Line.** The top of a roof or building parapet, excluding any cupolas, pylons, chimneys, or other minor projections.
- O. **Roof Sign.** A building mounted sign erected on the roof of a building.
- P. **Rowhome.** A building containing more than two (2) dwelling units, each with its own dedicated exterior entrance, joined to one another at one (1) or more sides by a party wall or walls.
- Q. **Runoff.** Rainfall, snowmelt, or irrigation water that has not evaporated or infiltrated into the soil, but instead flows over the ground surface.
- R. **Runway.** An area of prescribed dimension available for aircraft takeoffs and landings.

**11-1217. “S” Definitions”**

- A. **Salvage Yard.** Any site, or portion of a site, that is used for storing, keeping, selling, dismantling, shredding, compressing, or salvaging scrap or discarded materials or equipment.
- B. **Section Lines.** Where district boundaries are indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines, such lines shall be considered the district boundaries.
- C. **Self-Service Storage Facility.** A building or group of buildings that are used for the storage of personal property or records, where individual owners or tenants control individual storage spaces.
- D. **Setback Line, Front Yard.** A line from one side lot line to another side lot line, parallel to the street, and as far back from the front lot line(s) as required herein for the front yard.
- E. **Setback Line, Rear Yard.** A line from one side lot line to another side lot line, parallel to the rear lot line(s), and as far forward from the rear lot line(s) as required herein for the rear yard.
- F. **Setback Line, Side Yard.** A line from the front lot line to the rear lot line, parallel to the side lot line(s), and as far from the side lot line(s) as required herein for the side yard.
- G. **Setback Line, Street Side Yard.** A line(s) from the front lot line to the rear lot line, parallel to the street [side] lot line(s), and as far from the street [side] lot line(s) as required herein for the side yard.
- H. **Screening.** A method of visually shielding or obscuring an abutting or nearby use or structure from another by fencing, walls, berms, or densely planted vegetation as may be permitted by the landscape provisions of these regulations.
- I. **Setback.** The minimum distance by which any building, structure, or use must be separated from a street right-of-way or lot line.
- J. **Sewer.** A system of mains, pipes, and laterals, that either 1) receive and carry sewage to a waste water treatment plant where it is filtered, treated, and discharged, or 2) receive and carry storm water runoff and other drainage into local streams, rivers, or other surface water bodies.
- K. **Shopping Center.** A group of retail, service, or restaurant establishments that are planned, developed, owned, or managed as a unit, with off-street parking, landscape areas, and pedestrian malls or plazas that serve all of the uses located on the lot or tract proposed for development.
- L. **Shrub.** A woody plant with a multiple stem capable of growing to a height of no more than fifteen (15) feet.
- M. **Sidewalk.** An improved pedestrian way extending along, parallel to, and within an easement or the right-of-way of a public or private street.
- N. **Sign.** Any visual display with words or symbols designed to convey information or attract attention.
- O. **Sign Face.** The area of a sign on which copy is intended to be placed.
- P. **Sign Structure.** Any structure supporting a sign.
- Q. **Significant Stand.** A stand of trees with interconnected canopies that cover an area of at least ten thousand (10,000) square feet.
- R. **Single-Family Attached Dwelling.** Two (2) or more dwelling units, each of which is owned in fee and located on individual lots but joined along a common lot line, each of which is also totally separated from the other by a fire-resistance-rated wall assembly extending from ground to roof.

- S. **Single-Family Detached Dwelling.** A dwelling unit owned in fee and located on an individual lot which is not attached to any other dwelling unit by any means.
- T. **Site.** A lot or tract or series of adjoining lots or tracts on which a use is or will locate and that is otherwise subject to the provisions of this code.
- U. **Site Plan.** A plan, drawn to scale, showing the location of uses and structures proposed for a lot or tract of land as required by these regulations.
- V. **Small Animal.** An animal no larger than the largest breed of dog. This term includes fish, birds, reptiles, and mammals customarily kept in tanks, cages, kennels, or similar enclosures.
- W. **Small Animal Boarding Facility.** Any structure, land, or combination thereof used, designed, or arranged for the boarding, breeding or care of small animals.
- X. **Small Animal Veterinary Services.** Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases wherein the animals are limited to small animals and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.
- Y. **Solar Energy Conversion System.** A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or to provide for the collection, storage and distribution of solar energy for heating, cooling, or generation of electrical power.
- Z. **Solar Farm.** A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal or electrical energy.
- AA. **Solid Waste Facility.** All contiguous land, including structures, appurtenances, and other improvements on the land, used for processing, storing, or disposing of solid waste. The phrase "solid waste facility" includes a publicly or privately owned facility consisting of one or several processing, storage, or disposal operational units such as landfills, surface impoundments, or a combination of units.
- BB. **Solid Waste Transfer Station.** A solid waste facility or site at which temporary storage and transference of solid waste from one vehicle or container to another, generally of larger capacity, occurs prior to transportation to a point of processing or disposal. A transfer station is an intermediary point between the location(s) of waste generation (e.g., households, businesses, industries and the site(s) of ultimate processing or disposal.
- CC. **Special Flood Hazard Area (SFHA).** The land in the floodplain within a community subject to one (1) percent or greater chance of flooding in any given year.
- DD. **Stacking Lane.** An area for temporary queuing of motor vehicles.
- EE. **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 one hundred eighty (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 one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

- FF. **State.** The State of Nebraska.
- GG. **Storage Yard.** Any site that is primarily used for the storage of any products, materials, vehicles, equipment, junk, or scrap outside the confines of an enclosed building.
- HH. **Storefront.** The facade of a building, regardless of the use type of the space, having an entrance from the exterior of the building through the facade. Only facades that face upon a road or parking area between the building and the road shall be considered storefronts.
- II. **Storm Water.** The flow of water which results from precipitation and which occurs immediately following rainfall or snowmelt.
- JJ. **Storm Water Management.** The mitigation of the hydrological impacts of lost natural runoff storage by the use of constructed storage facilities.
1. For water quantity control, a system of vegetative, structural, and other measures that may control the volume and rate of storm water runoff which may be caused by land disturbing activities or activities upon the land; and
  2. For water quality control, a system of vegetative, structural, and other measures that control adverse effects on water quality that may be caused by land disturbing activities or activities upon the land.
- KK. **Story.** That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A story is measured as the vertical distance from top to top of two (2) successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.
- LL. **Street.** A public thoroughfare intended for use as a means of vehicular and/or pedestrian circulation providing access to adjoining properties. As it relates to local street specifications, a street is characterized as a roadway aligned in either a north-south direction, or an east-west direction, conforming to the appropriate address gridline.
- MM. **Street Frontage.** The linear measurement of a lot or tract along a street line, private road, or right-of-way to which the lot or tract abuts.
- NN. **Street Right-of-Way.** The area of right-of-way that includes an existing or future public street, which may be represented on a plat, deed, or other conveyance, or acquired by prescription. The street right-of-way may also include areas for sidewalks, utilities, parkways, medians, and drainage.
- OO. **Structure.** Any object constructed or built, the use of which requires location on the ground or attachment to something located on the ground. For flood plain purposes, shall mean 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.
- PP. **Subdivider.** Any person, firm, partnership, corporation or other entity, acting as a unit, subdividing or proposing to subdivide land.
- QQ. **Subdivision.** Subdivision shall mean the division of lot, tract, or parcel of land into two (2) or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of ownership or building development, except that the division of land shall not be considered to be a subdivision when the smallest parcel created is more than ten acres in area.
- RR. **Subdivision Development.** Includes activities associated with the platting of any tract of land into two (2) or more lots and all construction activities taking place thereon.
- SS. **Substantial Damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

TT. **Substantial Improvement.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure taking place within one (1) year preceding the date of the floodplain development permit and shall include any costs resulting from substantial damage, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the work is started. This term includes structures that have incurred 'substantial damage,' regardless of the actual repair work performed. This term does not, however, include:

1. Any work for which a permit is not otherwise required;
2. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
3. Any preservation, rehabilitation, restoration, or reconstruction of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, as set forth in the Secretary of the Interior's Standards for the Treatment of Historic Properties.

UU. **Surface Water.** Water on the earth's surface exposed to the atmosphere such as rivers, lakes, and creeks.

VV. **Surveyor** (see Land Surveyor).

### 11-1218. "T" Definitions

- A. **Tavern.** An establishment used primarily for the serving of alcoholic beverages by the drink to members and their guests and where food or packaged alcoholic beverages may be served or sold only as accessory to the principal use.
- B. **Telecommunications.** Any origination, creation, transmission, emission, storage-retrieval, or reception of signs, signals, writing, images, sounds, or intelligence of any nature, by wire, radio, television, optical, or other means.
- C. **Telecommunications Tower.** A structure that acts as an antennae or to which telecommunications equipment is attached.
- D. **Temporary Sign.** A sign of a transitory or temporary nature. Signs not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.
- E. **Temporary Use.** A use that is established for a short period of time with the intent to discontinue such use automatically upon the expiration of such time.
- F. **Text Amendment.** A change to the text of the UDC, adopted by Ordinance of the City Council, including amendments that supplement, modify, or repeal any of this UDC's present or future provisions.
- G. **Through Lot.** A lot or tract having frontage on two (2) streets, private ways, or courts, not including a corner lot.
- H. **Tract.** All contiguous land under common ownership.
- I. **Truck Stop.** A facility intended to provide services to the trucking industry, including but not limited to the following activities: dispensing of fuel, repair shops, automated washes, restaurants, and motels; all as part of the facility.

### 11-1219. "U" Definitions

- A. **Understory Tree.** A woody plant that attains a mature height of at least fifteen (15) feet.
- B. **Utility.** A commodity or service which is of public consequence and need such as water, waste water, gas, electricity, or drainage.

**11-1220. “V” Definitions”**

- A. **Variance.** Allowance for deviation from the dimensional (i.e. bulk, area, height) requirements/regulations of the UDC.
- B. **Vending Kiosk.** Any equipment, apparatus, trailer, vehicle, cart, or other conveyance, other than a vending machine, located outdoors, from which a vendor displays, sells, offers for sale, gives away, or offers to give away anything of value including any food, beverage, goods, wares, merchandise, or services.

**11-1221. “W” Definitions”**

- A. **Wall Sign.** A sign that is in any manner affixed to any exterior wall of a building or structure including signs affixed to architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building facade or to the face or faces of the architectural projection to which it is affixed.
- B. **Warehouse.** A use primarily engaged in the storage, of raw materials, manufactured products, supplies, and equipment to be sold elsewhere or to be transported to another location for processing., This excludes bulk storage of materials that are inflammable or explosive or that present hazards or conditions commonly recognized as offensive.
- C. **Wastewater.** Any water or other liquid, other than uncontaminated storm water discharged from a facility.
- D. **Water Quality.** Those characteristics of storm water runoff, that relate to the chemical, physical, biological, or radiological integrity of water.
- E. **Watercourse.** A natural or artificial channel through which water can flow.
- F. **Wellhead Protection Area.** The surface and subsurface area surrounding a water well or wellfield supplying a public water system through which contaminants are reasonably likely to move toward and reach such water well or wellfield.
- G. **Wind Farm.** A group of devices, such as a wind charger or wind turbine, which converts wind to a form of usable energy.
- H. **Window Sign.** A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.
- I. **Wellhead Protection Area (“WPA”).** The surface and subsurface area surrounding a water well or well field supplying a public water system through which contaminants are reasonable likely to move toward and reach such water well or well field.
- J. **Wholesale Establishment.** An establishment that is primarily engaged in selling and / or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers. The term "wholesale" does not include wholesale membership clubs that offer memberships to the general public.
- K. **Wrecking Yard.** Any site, or portion of a site, where damaged, inoperable, or obsolete machinery such as cars, trucks and trailers, or parts thereof, are stored, bought, sold, accumulated, exchanged, disassembled, or handled.

**11-1222. “Y” Definitions**

- A. **Yard.** Open space at grade between a building or structure and the adjoining lot line(s), unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided for herein. In determining a yard width or depth, the minimum horizontal distance between the building or structure and the lot line shall be used.
- B. **Yard, Front.** Open, landscaped area at grade between the front yard setback line(s) and the front lot line(s), and extending the full width of the lot. The front yard shall be reserved as a landscaped area, however it may be crossed by a sidewalk or driveway serving the property. On-site parking may be allowed in the front yard, except in required bufferyards in a Commercial (nonresidential/mixed-use application) or Industrial zoning district when an otherwise UDC-conforming on-site parking layout is part of an Approved Development/Site Plan or construction permit.

- C. **Rear Yard.** Open, landscaped area at grade between the rear yard setback line(s) and the rear lot line(s) extending the full depth of the lot. The rear side yard shall be reserved as a landscaped area, however it may be crossed by a sidewalk or driveway serving the property. On-site parking may be allowed in the rear yard, except in required bufferyards in a Commercial (nonresidential/mixed use application) or Industrial zoning district when an otherwise UDC-conforming on-site parking layout is part of an approved Development/Site Plan or construction permit.
- D. **Street Side Yard.** Open, landscaped area at grade between the street [side] yard setback line(s) and the street [side] lot line(s) extending the full depth of the lot. The street side yard shall be reserved as a landscaped area. On-site parking may be allowed in the street side yard, except in required bufferyards in a Commercial (nonresidential/mixed use application) or Industrial zoning district when an otherwise UDC-conforming on-site parking layout is part of an approved Development/Site Plan or construction permit.
- E. **Side Yard.** Open, landscaped area at grade between the side yard setback line(s) and the side lot line(s) and extending the full depth of the lot. The side yard shall be reserved as a landscaped area, however it may be crossed by a sidewalk or driveway serving the property, however it may be crossed by a sidewalk or driveway serving the property, including a driveway along the length of the side yard. On-site parking may be allowed in the side yard, except in required bufferyards in a Commercial (nonresidential/mixed use application) or Industrial zoning district when an otherwise UDC-conforming on-site parking layout is part of an approved Development/Site Plan or construction permit.

### 11-1223. "Z" Definitions

- A. **Zoning Administrator** (see Director of Planning).
- B. **Zoning Amendment.** A change in the provisions of this UDC including those portions incorporated by reference. This term includes Conditional Use approval.
- C. **Map Amendment.** The legislative act of reclassifying one (1) or more lots or tracts.
- D. **Zoning District.** An area or areas of the territory of the City within which certain uniform zoning regulations and requirements, or various combinations thereof, apply as set forth in this UDC.
- E. **Zoning Map.** The Official Zoning Map of the City of Fremont, Nebraska, which is incorporated into this UDC by operation of Section 11-204: *Official Zoning Map*, and which shows the location and boundaries of the various zoning districts established by this UDC.