

ARTICLE 4: GENERAL PROVISIONS

Section 4.01 Planning Commission Recommendations

Pursuant to Section §19-901 et. seq., (Nebraska Reissue Revised Statutes, 1943), it shall be the purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein.

The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the City Council shall not hold its public hearings or take action until it has received the final report of the Commission.

Section 4.02 District Regulations, Restrictions, Boundary Creation

No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the City at least one time 10 days prior to such hearing.

Section 4.03 Jurisdiction

The provisions of this Ordinance shall apply within the corporate limits of the City of Ashland, Nebraska, and within the territory beyond said corporate limits as prescribed under Nebraska Revised Statutes, as established on the map entitled "The Official Zoning Map of the City of Ashland, Nebraska", and as may be amended by subsequent annexation.

Section 4.04 Protection Corridors

In addition to the regulations of this Ordinance, all structures within any protection corridor of the city, the county or the Nebraska Department of Roads shall adhere to any permits, reviews and established setbacks.

Section 4.05 Provisions of Ordinance Declared to be Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance require a lower height of building or lesser size of yards, courts or other spaces, or require a lower height of building or lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other ordinance, the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance requires a greater width or size of yards, courts, or other open spaces, or requires a lower height of building or a lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

Section 4.06 Zoning Affects Every Building and Use

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

Section 4.07 Lot

4.07.01 Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one (1) principal building on a lot unless otherwise provided.

4.07.02 More than one principal building, of a single permitted use may be located upon a lot or tract in the following instances:

1. Institutional buildings
2. Public or semi-public buildings
1. Multiple-family dwellings
2. Commercial or industrial buildings
3. Home for the aged
4. Agricultural buildings

Section 4.08 Reductions in Lot Area Prohibited

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

Section 4.09 Obstructions to Vision at Street Intersections Prohibited

In all districts except Central Business, on a corner lot, within the area formed by the center line of streets at a distance of ninety (90) feet from their intersections, there shall be no obstruction to vision between a height of three and one-half (3 ½) feet and a height of ten (10) feet above the average grade of each street at the center line thereof. On a four-lane street or road, such measurement shall be taken from the center of the nearest set of lanes and not the center of the entire roadway. The required distance may be increased based upon subdivision design and speed limits along major or other arterials. The requirements of this section shall not be deemed to prohibit any necessary retaining wall. Such distances shall also apply to the intersection of street or road and a railroad.

No street tree shall be planted closer than thirty-five (35) feet from any street corner, measured from the point of the nearest intersection of curbs or curb lines. All landscaping materials or structures installed in the street/road right-of-way, including islands, medians, roundabouts, and chicanes, shall be at least 50% non-opaque between the heights of three and one-half (3 ½) feet and 10 feet, unless approved by the City, to reduce vision and hearing obstruction and the interference with pedestrian or vehicular traffic in any way.

Section 4.10 Yard Requirements

- 4.10.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- 4.10.02 All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 4.10.03 The City may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback of principal structures provided that 1) more than 30 percent of the frontage on one side of a street between intersecting streets is occupied by principal structures on the effective date of this Ordinance, and 2) a minority of such structures have observed or conformed to an average setback line.
- 4.10.04 Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than twenty-five (25) feet and shall contain landscaping and planting suitable to provide effective screening.
- 4.10.05 Any yard for a commercial or industrial use which is adjacent to any residential use or district shall be increased to forty (40) feet and shall contain landscaping and planting suitable to provide effective screening.

Section 4.11 Through Lots

- 4.11.01 Through Lots shall follow the following criteria:
1. Where a Through Lot abuts a major thoroughfare, such as Highway 6 and access is made from the other frontage street and access along said thoroughfare is restricted, the Rear Yard setback for fences and screening devices shall be zero feet. The Rear Yard setback for accessory buildings shall follow the prescribed setback within the zoning district.
 2. Where a Through Lot is part of a triple frontage lot and abuts a major thoroughfare, the Rear Yard shall meet the standards of 4.10.01 (1), while the other two frontages shall be treated as a Corner Lot with two Front Yard setbacks.
 3. Where a Through Lot occurs, other than along a major thoroughfare, the following shall apply:
 - A. Where all principal structures in the development face the same frontage, then the Rear Yard setback for fences and screening shall be zero feet and all accessory buildings shall meet the prescribed setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical Corner Lot.
 - B. Where principal structures face different directions along both frontages, the Rear Yard setback for fences and screening shall be the same as any prescribed Rear Yard setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical Corner Lot. All accessory buildings in this condition, shall comply with the minimum Rear Yard setbacks rather than the reduced setback allowed for accessory buildings.

Section 4.12 Drainage

No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the City or their designated agent with data indicating that such changes will not be a detriment to the neighboring lands.

Section 4.13 Permitted Obstructions in Required Yards

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

- 4.13.01 *All Yards:* Open porches, platforms or terraces not over three (3) feet above the average level of the adjoining ground and extending not more than four (4) feet into the required yard; awnings and canopies provided they do not extend or project into the yard more than four (4) feet; steps four (4) feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys, roof overhangs, eaves, cornices, and window air conditioners projecting twenty-four (24) inches or less into the yard; recreational and laundry-drying equipment; approved freestanding signs; arbors and trellises; flag poles; and fences or walls subject to applicable height restrictions are permitted in all yards.
- 4.13.02 *Front Yards:* Bay windows projecting three (3) feet or less into the yard are permitted.
- 4.13.03 *Rear and Side Yards:* Open off-street parking spaces, balconies or outside elements of central air conditioning systems, extending not more than four (4) feet into the yard are permitted.
- 4.13.04 *Double Frontage Lots:* The required front yard shall be provided on each street.
- 4.13.05 *Building Groupings:* For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one (1) building occupying one (1) lot.
- 4.13.06 *Alley-Facing Rear and Side Yards:* Reconstruction of existing detached garage/storage buildings located in alley-facing rear and side yards is permitted, provided a minimum four (4) foot rear yard setback is maintained.

Section 4.14 Accessory Building and Uses

- 4.14.01 No accessory building shall be constructed upon a lot for more than six months prior to beginning construction of the principal building, except in the TA District. No accessory building shall be used for more than six months unless the principal building on the lot is also being used or unless the principal building is under construction, except in the TA District; however, in no event shall any such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
- 4.14.02 No detached accessory building or structure shall exceed the maximum permitted height of the district.
- 4.14.03 No accessory building shall be erected in or encroach upon the required the front yard.
- 4.14.04 Outdoor swimming pools and bathing facilities on residential properties are considered accessory structures and shall meet appropriate setbacks and sides of the pool deck/apron shall be located at least five (5) feet from any lot line.
- 4.14.05 Detached accessory buildings or structures shall be located no closer than 10 feet to any other accessory or principal building as provided in the local building code.
- 4.14.06 All accessory buildings, regardless of zoning district, shall be subordinate to the principal building with regard to size and building footprint except in the TA and RE Districts.
- 4.14.07 No accessory building shall be located in front of the principal structure unless otherwise specified.
- 4.14.08 In the R-1, R-2, R-3 and RT zoning districts, detached accessory garages, carports, and similar outbuildings for storage uses and other structures customary and appurtenant to the permitted uses shall be stick built and constructed of materials customarily used in residential construction and be consistent with materials and color of the principle structure. The roofs of said building shall have a minimum 3:12 pitch. Metal roofing and vertical metal siding are not permitted unless permitted and used on the principal structure. Such structures shall be enclosed on at least three sides. Storage sheds less than one hundred (100) square feet in area may be fully enclosed, modular kits commonly purchased at home improvement stores. This section in no way allows the use of truck bodies, semi-trailers, or enclosed utility trailers, whether converted or not, to be used as accessory structures. Portable storage containers are not permitted. The sidewalls of said buildings shall not exceed ten (10) feet in height.
- 4.14.09 The side or rear yard setback for an accessory structure having vehicular access through said yard to an alley, public street, private road, or ingress/egress easement shall be a minimum of 15 feet.
- 4.14.10 In the R-1, R-2, R-3 and RT Residential Districts, a maximum of two accessory structures shall be allowed

1. Detached garages shall count as one accessory structure, with a maximum allowable size of 750 square feet.
 2. Garden sheds shall count as one accessory structure, with a maximum allowable size of 144 square feet.
- 4.14.10 Regulation of accessory uses shall be as follows:
1. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
 2. Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than 15 feet from street lines.
 3. Storage of an unlicensed boat, unlicensed boat trailer, unlicensed camp trailer, or other unlicensed vehicle shall not be permitted in any required yard.
 4. Vehicles for sale. In all zoning districts, the display of any vehicle for sale, rent, or lease is limited to one (1) vehicle at a time per property street address, regardless of the number of persons who reside at the property street address. For the purpose of this provision, for dwellings which contain more than one residential unit, the display of any vehicle for sale, rent, or lease is limited to one (1) vehicle at a time per postal address. The sale of a vehicle must not be in connection with an automobile sales business. Only the owner of the property on which the vehicle is displayed, or a tenant thereof, may display such vehicle for sale, rent, or lease. Any vehicle so displayed must be fully operable and licensed as required in these regulations. This section shall not apply to dealers licensed by the State of Nebraska operating lawfully within the zoning district in which they are located. Any person may apply for a conditional use permit to display more than one (1) vehicle at a time for sale, rent, or lease per property street address.

Section 4.15 Permitted Modifications of Height Regulations

4.15.01 The height limitations of this Ordinance shall not apply to:

Belfries	Public Monuments
Chimneys	Ornamental Towers and Spires
Church Spires	Radio and Television
Conveyors	Towers less than 50 feet in height
Cooling Towers	Silos
Elevator Bulkheads	Smoke Stacks
Fire Towers	Stage Towers or Scenery Lots
Water Towers and Standpipes	Tanks
Flag Poles	Air-Pollution Prevention Devices

4.15.02 When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding 75 feet when each required yard line is increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

Section 4.16 Occupancy of Basements and Cellars

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

Section 4.17 Non-Conforming, General Intent

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

Section 4.18 Non-conforming Lots of Record

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provision of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; that such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such

location would have been lawful; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous ordinance would have prohibited creation of such lot. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment.

Section 4.19 Non-conforming Structures

- 4.19.01 **Authority to continue:** Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
- 4.19.02 **Enlargement, Repair, Alterations:** Any such structure described in Section 4.19.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall create any new type of nonconformity or increase the degree of existing nonconformity of all or any part of such structure, unless otherwise provided for in these regulations. Any such non-conforming structure described herein, where such non-conformity is solely that of not conforming to the setback requirements, may enlarge, maintain, repair or remodel said structure by increasing the wall or walls, which are conforming, in line with the existing structure. Said enlargement, repairs, or remodeling shall not violate the provisions for maximum lot coverage and/or maximum allowable area for accessory buildings.
- 4.19.03 **Damage or Destruction:** In the event that any structure described in Section 4.19.01 is damaged or destroyed, by any means other than by natural acts (such as tornado, flood or unintentional fire), to the extent of more than 50 percent of its structural value exclusive of land and foundation at the time of such damage or destruction, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.18, shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 50 percent of its structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and may be extended six months upon an approved building Permit extension request.
- 4.19.04 **Moving:** No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

Section 4.20 Non-conforming Uses

- 4.20.01 **Non-conforming Uses of Land:** Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
 2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance;
 3. If any such non-conforming use of land ceases for any reason for a period of more than 12 consecutive months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
- 4.20.02 **Non-conforming Uses of Structures:** If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
 2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building;

3. If no structural alterations are made, any non-conforming use of a structure or structures and premises may be changed to another non-conforming use provided that the Planning Commission and City Council, after each has completed a Public Hearing as per State Statute, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Planning Commission and/or City Council may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
4. Any structure, or structure and land in combination, in any or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the non-conforming use may not thereafter be resumed;
5. When a non-conforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
6. Where non-conforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming statutes of the land.

Section 4.21 Repairs and Maintenance

- 4.21.01 On any building devoted in whole or in part to any non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this ordinance shall not be increased.
- 4.21.02 Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 4.22 Uses under Conditional Use Permit not Non-conforming Uses

Any use for which a conditional use permit is issued as provided in this ordinance shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

Section 4.23 Public Safety Radio Amplification Systems

- 4.23.01 **General:** Except as otherwise provided, no person shall maintain, own, erect, construct, remodel, renovate, or provide an addition of more than 20 percent to, any building or structure or any part thereof or cause the same to be done which fails to support adequate radio coverage for the Saunders County Radio Communications System (SCRCS), including but not limited to emergency service workers, firefighters and police officers. Descriptively, adequate coverage means the ability for SCRCS users to transmit into the building an intelligible voice signal that may be heard; the ability to receive an intelligible voice signal transmitted and originating from within the building; and, the ability to transmit and receive intelligible voice signals among users who are within the building.

For purposes of this section, adequate radio coverage shall include all of the following:

- 1) A minimum received signal strength in the building of one micro volts (-107 dBm) available in 90 percent of the area of each floor when transmitted from the SCRCS;
 - 2) A minimum signal strength of one micro volts (-107 dBm) received by the SCRCS when transmitted from 90 percent of the area of each floor of the building;
 - 3) The frequency range that must be supported shall be 806 MHz to 869 MHz; and,
 - 4) A 90 percent reliability factor shall be required.
- 4.23.02 **Testing Procedures:** Initial Tests; It will be the building owner's responsibility to have the building tested to ensure that two-way coverage on each floor of the building is a minimum of 90 percent. At a minimum, the test shall be conducted using a Motorola MTS 2000, or equivalent portable radio, talking through the SCRCS. Radios may be obtained for conduct of the tests from the Saunders County Communications Department (SCCD). The gain values of all amplifiers shall be measured and the test measurement results shall be provided to the SCCD and kept on file so that the measurements can be verified each year during the annual tests. The SCCD will be informed of the schedule for such testing, and, at its discretion may participate as an observer. A Certificate of Occupancy shall not be issued to any structure if the building fails to comply with this section. Annual Tests; the building owner shall be responsible to conduct annual tests. Such tests shall follow the guidance outlined in Section 4.23.01 and 4.23.02 above.

- 4.23.03 **Amplification Systems Allowed:** Buildings and structures that cannot support the required level of radio coverage shall be equipped with any of the following in order to achieve the required adequate radio coverage: a radiating cable system or an internal multiple antenna system with or without FCC accepted bi-directional amplifiers as needed. If used, bi-directional amplifiers shall include filters to reduce adjacent frequency interference at least 35 dB below the National Public Safety Planning Advisory Committee (NPSPAC) band. The filters shall be tuned to 825 MHz and to 870 MHz so that they will be 35 dB below the NPSPAC frequencies of 824 MHz and 869 MHz respectively. Other settings may be used provided that they do not attenuate the NPSPAC frequencies and further provided that they are not more than one MHz from the NPSPAC frequencies. If any part of the installed system or systems contains an electrically powered component, the system shall be capable of operating on an independent battery and/or generator system for a period of at least 12 hours without external power input. The battery system shall automatically charge in the presence of an external power input.
- 4.23.04 **Field Testing:** SCCD personnel, after providing reasonable notice to the owner or his representative, shall have the right to enter onto the property to conduct field testing to certain the required level of radio coverage is present.
- 4.23.05 **Exemptions:** This section shall not apply to; buildings permitted in residential districts; any building constructed of wood frame; any building 35 feet high or less; long as none of the aforementioned buildings make use of any metal construction or any underground storage or parking areas. For purposes of this section, parking structures and stairwells are included in the definition of “building” and stair shafts are included in the definition of “all parts of a building”, but elevators may be excluded.

Section 4.24 Fees

All fees for any zoning or subdivision related action shall be required prior to the issuance or investigation of any said permit request. Fees shall be a part of the Master Fee Schedule adopted by the City Council by separate Ordinance.

Section 4.25 Prohibited Uses

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