

CITY OF MADISON  
ZONING ORDINANCE &  
SUBDIVISION REGULATIONS

DECEMBER, 2017



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# 1

## **ARTICLE ONE**

### **GENERAL PROVISIONS**

#### **101 Title**

This title of the Madison Municipal Code shall be known as the Zoning Ordinance of the City of Madison.

#### **102 Jurisdiction**

The provisions of this chapter shall be applicable to all property within the corporate limits of the City of Madison and its one mile extra-territorial jurisdiction as provided by Sections 19-901 through 19-914, Revised Statutes of Nebraska, 1943.

#### **103 Purpose**

The purposes of the Zoning Ordinance of the City of Madison are to:

1. Serve the public health, safety, and general welfare of the city and its jurisdiction.
2. Classify property in a manner that reflects its suitability for specific uses.
3. Provide for sound, attractive development within the city and its jurisdiction.
4. Encourage compatibility of adjacent land uses.
5. Protect environmentally sensitive areas.
6. Further the objectives of the Comprehensive Development Plan of the City of Madison.

#### **104 Consistency with Comprehensive Development Plan**

The City of Madison intends that this Zoning Ordinance and any amendments to it shall be consistent with the City's comprehensive Development Plan. It is the City's intent to amend this ordinance whenever such action is deemed necessary to keep regulatory provisions in conformance with the Comprehensive Development Plan.

#### **105 Conflicting Provisions**

The Zoning Ordinance shall be held to provide the minimum requirements necessary for the promotion of the public health, safety, and welfare. If any provision of the Zoning Ordinance conflicts with any other provision of the Zoning Ordinance, any other Ordinance of the City of Madison, or any applicable State or Federal law, the more restrictive provision shall apply.

**106 Relief from Other Provisions**

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute.

**107 Severability of Provision**

If any chapter, section, clause, or phrase of this Zoning Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

**108 Publication**

This Ordinance shall be published in book or pamphlet form and shall, together with the maps being a part hereof, shall be filed with the City Clerk of the City of Madison, Nebraska.

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## ARTICLE TWO

### DEFINITIONS

#### 201 Purpose

Article Two shall be known as the Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of the Zoning Ordinance. The meaning and construction of words as set forth shall apply throughout the Zoning Ordinance, unless where modified in a specific section or where the context of such words or phrases clearly indicates a different meaning or construction.

#### 202 General Construction of Language

The following general rules of construction apply to the text of the Zoning Ordinance.

- a. Headings: Section and subsection headings contained herein are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or otherwise affect the scope, meaning, intent of any provision of the Zoning Ordinance.
- b. Illustration: In the case of any real or apparent conflict between the text of the Ordinance and any illustration explaining the text, the text shall apply.
- c. Shall and May: “Shall” is always mandatory. “May” is discretionary.
- d. Tenses and Numbers: Words used in the present tense include the future tense. Words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- e. Conjunctions: Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
  1. “And” indicates that all connected items or provisions apply.
  2. “Or” indicates that the connected items or provisions may apply singly or in any combination.
  3. “Either ... or” indicates that the connected items or provisions shall apply singly but not in combination.
- f. Referenced Agencies: Unless otherwise indicated, all public officials, bodies, and agencies referred to in this Chapter are those of the City of Madison.
- g. Persons: Includes a corporation, members of a partnership or other business organizations, a committee, a board, council, commission, trustee, receiver, agent, or other representative.
- h. Undefined Words: Include words or terms not herein defined shall have their ordinary meaning in relation to the context.

**203 Definition of Terms**

For the purposes of this Zoning Ordinance, certain terms and words are hereby defined. Certain sections contain definitions which are additional to those listed here. Where terms are not specifically defined, their ordinarily accepted meaning or meanings implied by their context shall apply.

**204 A**

1. **Abandonment:** To cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.
2. **Abutting:** Having lot lines or district boundaries in common, including property separated by a public street or alley. Used interchangeably with adjacent.
3. **Accessory Living Quarters:** Living quarters within an accessory building for use by temporary guests of the occupant of the premises, such quarters have no kitchen facilities and not rented or otherwise used as a separate dwelling unit.
4. **Accessory Structure:** A permanent structure, eleven (11) feet by eleven (11) feet or larger, which is incidental to and customarily associated with a specific principal use or building on the same site.
5. **Accessory Use:** A use which is incidental to and customarily associated with a specific principal use on the same site.
6. **Acreage:** Any tract of land that does not qualify as a farm, development, or platted city lot.
7. **Addition:** Any construction which increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.
8. **Adult Establishment:** Any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to “special sexual activities” or “specified anatomical areas,” including without limitation, adult bookstores, adult companionship establishments, adult motion picture theaters, adult saunas, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.
  - a. **Adult Bookstore:** A bookstore offering its customers books, movies, or other novelty items characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to “specified sexual activities” or “special anatomical areas.”
  - b. **Adult Companion Establishment:** An establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “special anatomical areas.”
  - c. **Adult Hotel or Motel:** A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an

- emphasis on matter depicting, exposing, describing, discussing or relating to “specified sexual activities” or “special anatomical areas.”
- d. Adult Massage Parlor, Adult Health Club: A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “special anatomical areas.”
  - e. Adult Mini-Motion Picture Theater: A business premises with an enclosed building with a capacity for less than fifty (50) persons used for presenting visual media material is such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction, description of “specified sexual activities” or “special anatomical areas” for observation by patrons therein.
  - f. Adult Motion Picture Theaters: A business premises within an enclosed building with a capacity of fifty (50) or more persons used for presenting visual media material is such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction, description of “specified sexual activities” or “special anatomical areas” for observation by patrons therein.
  - g. Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are depiction, description of “specified sexual activities” or “special anatomical areas” for observation by patrons therein.
  - h. Adult Novelty Business: A business that has as a principal activity the sale of devices that stimulate human genitals or devices that are designed for sexual stimulation.
  - i. Adult Sauna: A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on “specified sexual activities” or “special anatomical areas.”
9. Agent of Owner: Any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.
10. Agricultural Buildings: Any building or structure which is necessary or incidental to the normal conduct of a farming operation.
11. Agriculture: The use of land for agricultural purposes, for obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sales of, or the production of, livestock, fur-bearing animals, or honeybees, or for dairying and the sales of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any non-agricultural commercial or industrial development.
12. Alley: A public right of way which is used as a secondary means of access to abutting property.

13. Alteration: Any construction or physical change in the internal arrangement of spaces, the supporting members, the positioning on a site, or the appearance of a building or structure.
14. Amendment: A change in the wording, context, or substance of this Ordinance, or an addition, deletion or change in the district boundaries or classification upon the Official Zoning Map.
15. Apartment: A housing unit within a building designed for and suitable for occupancy by only one family. Apartments are generally located within multi-family residential buildings.
16. Appropriate: Fitting the context of the site and the whole community.
17. Attached: Having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway; facade wall extension; or archway.
18. Automobile Wrecking Yard: Any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale parts and equipment resulting from such dismantling or wrecking.

**205 B**

1. Bar: Any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. (Also, see Nightclub.)
2. Base Flood: A flood, from whatever source, having a one percent (1%) chance of being equaled or exceeded in any given year, otherwise referred to as the 100-year flood.
3. Base Flood Elevation: That elevation, expressed in feet above mean sea level, to which flooding can be expected to occur on a frequency of once every 100 years, or which is subject to a one percent (1%) or greater chance of flooding in any given year.
4. Base Zoning District: A district established by this Ordinance which prescribes basic regulations governing land use and site development standards. No more than one Base Zoning District shall apply to any individually platted lot or parcel unless the lot or parcel is part of a Planned Unit Development.
5. Basement: A level of a building below grade level that has at least one-half of its height below the surface of adjacent ground. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement.
6. Bed and Breakfast: A house, or portion thereof, where short-term lodging rooms and meals are provided, and the operator of which shall live on the premises.
7. Bedroom: A room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.
8. Beginning of Construction: The initial incorporation of labor and materials within the foundation of a building or structure.
9. Berm: A raised form of earth to provide screening or to improve the aesthetic character.

10. Billboard: (See Sign, Billboard.)
11. Block: An area of land that is entirely bounded by streets, or by waterways, right-of-ways, unplatted land, City/County boundaries, or adjoining property lines.
12. Block Face: The property abutting one side of a street and lying between the two nearest intersection streets, or between the one nearest intersecting street and a major physical barrier, including, but not limited to, railroads, streams, lakes, or the corporate limits of Madison.
13. Board of Adjustment: A body, established by the County, pursuant to Section 19-901 through 19-914 of the Nebraska Revised Statutes, expressly for the purpose of granting relief from situations of hardship and to hear appeals as provided by this Ordinance.
14. Boarding or Rooming House: A building containing a single dwelling unit and provisions for not more than five guests, where lodging is provided for compensation with or without meals.
15. Broadcasting Tower: A structure for the transmission or broadcast of radio, television, radar, or microwaves which exceeds the maximum height permitted in the district in which it is located. Non-commercial radio towers not exceeding fifty feet (50') in height shall not be considered broadcast towers.
16. Buffer: A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.
17. Building: A structure entirely separated from any other structure by space or by walls and having a roof and built to provide shelter, support, or enclosure for persons or property.
18. Building Footprint: The area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.
19. Building Envelope: The three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.
20. Building Height: The vertical distance above grade to the highest point of the coping of a flat roof or the ridgeline of a mansard roof or pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five feet (5') horizontal distance of the exterior wall of the building.
21. Building Line: The outer boundary of a building established by the location of its exterior walls.
22. Building Setback Line: The minimum distance, as prescribed by this regulation, between any property line and the closest point of the building line or face of any building or structure related thereto.
23. Business: Activities that include the exchange or manufacture of goods or services on a site.
24. Business Center: A building containing more than one commercial business, or any group of non-residential buildings within a common development, characterized by shared parking and access.

1. Carport: A permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage.
2. Certificate of Zoning Compliance: An official certificate issued by the Planning Director or his/her designee, when a zoning/building permit is not necessary, which indicates that the proposed use of building or land complies with the provisions of the Zoning Ordinance.
3. Change of Use: The replacement of an existing use by a new use.
4. Child Care Center: An establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for nine (9) or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.
5. Child Care Home: An operation in the provider's place of residence which serves at least four (4), but not more than eight (8) children at any one time, from families other than that of the provider. A Family Child Care Home provider may be approved to serve no more than two (2) additional school-age children during non-school hours. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.
6. Church, Storefront: A religious facility contained within a store or similar structure not typically used for religious activities that are now used as a meeting place for a congregation. Structures adapted for congregations including barns, stores, warehouses, old public buildings, and single-family dwellings.
7. City: Madison, Nebraska.
8. City Council: The City Council of Madison, Nebraska.
9. Clear View Zone: The area of a corner lot closest to the intersection, which is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic.
10. Cluster: A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.
11. Code: The Municipal Code of the city of Madison, Nebraska.
12. Collector Street: A street connecting neighborhoods within the same communities, designed to carry traffic from local to arterial streets.
13. Commercial Feedlot (Confined Animal Feeding Operation): A lot or building or combination of lots and buildings intended to be used for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which may accumulate, or where the concentration of animals is such that a vegetation cover cannot be maintained in the enclosure.
14. Commission: The Madison County Joint Planning Commission.

15. Common Area: An area held, designed, and designated for common or cooperative use within a development.
16. Common Development: A development proposed and planned as one unified project not separated by a public street or alley.
17. Common Open Space: Land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the development.
18. Compatibility: Shall mean harmony in the appearance of two or more external design features in the same vicinity.
19. Compatible Use: The degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.
20. Comprehensive Plan: The duly adopted Comprehensive Development Plan of the City of Madison.
21. Conditional Use: A use conditionally allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.
22. Conditional Use Permit: A permit issued by the Joint Planning commission and City Council that authorizes the recipient to make a conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon, or required by said permit.
23. Condominium: A real estate ownership arrangement that combines fee simple title to a specific unit and joint ownership in common elements shared with other unit owners. Types of units may include dwelling units, parking spaces, office spaces, or commercial spaces.
24. Conflicting Land Use: The use of property which transfers over neighboring property lines negative economic or environmental effects, including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, and water vapor, or consists of mismatched land uses, density, height, mass, or layout of adjacent uses, or results in a loss of privacy or unsightly views.
25. Conservation Development: A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.
26. Conservation Easement: An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.
27. Conservation Subdivision: Wholly or in majority, a residential subdivision that permits a reduction in lot area, setback, or other site development regulations, provided 1) there is no increase in the overall density permitted for a conventional subdivision in a given zoning district, and 2) the remaining land area is used for common space.

28. Convenience Store: A one-story, retail store containing less than three-thousand (3,000) square feet of gross floor area is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a “supermarket”) It is dependent on, and its designed to attract and accommodate large volumes of stop-and-go traffic.
29. Contiguous: Shall mean the same as “Abut.”
30. Corporate Limits: All land, structures and open space that has been annexed into the City’s jurisdiction. This does not include the extraterritorial jurisdiction of the City.
31. Council: The City Council of Madison, Nebraska.
32. County: Madison County, Nebraska.
33. Courtyard: An open, unoccupied space, bounded on two or more sides by the walls of the building.
34. Conventional Subdivision: A subdivision which literally meets all nominal standards of the Land Development Ordinance for lot dimensions, setbacks, street frontage, and other site development regulations.
35. Creative Subdivision: A subdivision which, while complying with the Subdivision Ordinance, diverges from nominal compliance with site development regulations in the Land Development Ordinance. Creative subdivisions imply a higher level of pre-planning than conventional subdivisions. They may be employed for the purpose of environmental protection or the creation of superior community design. Types of Creative Subdivisions include Cluster Subdivisions and Traditional Neighborhood Districts.
36. Cul-De-Sac: A short public way, which has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

207 **D**

1. Density: The amount of development per specific unit of a site.
2. Detention Basin: A Facility for the temporary storage of stormwater runoff.
3. Developer: Any person, corporation, partnership, or entity that is responsible for any undertaking that requires a zoning/building permit, conditional use permit or sign permit.
4. Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.

5. District or Zone: A section of the Zoning Area for which uniform regulations governing the use of land, the height, use, area, size, and intensity of use of buildings, land, and open spaces established.
6. Drive-in Services: Uses which involve the sale of products or provision of services to occupants in vehicles.
7. Detached: Fully separated from any other building or jointed to another building in such a manner as not to constitute an enclosed or covered connection.
8. Driveway: A permanently paved, surfaced area providing vehicular access between a street and an off-street parking or loading area.
9. Duplex: A two-family residential use in which the dwelling units share a party or common wall (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.
10. Dwelling: Any building or portion thereof which is designed and used exclusively for residential purposes, excluding mobile homes.
  - a. Dwelling, Manufactured Home: A factory built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site; does not have permanently attached to its body or frame any wheels or axles; bears a label certifying that it was built in compliance with the National Manufactured Home Construction and Safety Standards promulgated by the US Department of Housing and Urban Development; and which complies with the following architectural and aesthetic standards:
    - i. The home shall have at least 900 square feet of floor area;
    - ii. The home shall have an exterior width of at least 18 feet;
    - iii. The roof shall be pitched with a maximum vertical rise of 2.5 inches for each 12 inches of horizontal run.
    - iv. The exterior material is of a color, material, and scale comparable with those existing in the residential site on which the manufactured home dwelling is being permanently installed;
    - v. The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
    - vi. Permanent utility connections shall be installed in accordance with local regulations;
    - vii. The home shall have all wheels, axles, transporting lights, and towing apparatus removed; and

- viii. The home shall be installed upon a permanent foundation that is constructed and built in accordance with local regulations.
  - b. Dwelling, Mobile Home: Any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or rollers, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp, car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.
    - i. Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers' recommendations.
    - ii. Permanent Foundation: Base on which building rests, to be constructed from either poured concrete or laid masonry block or crick on a footing to be placed a minimum of forty-two inches (42") below the final ground level.
  - c. Dwelling, Modular: Any dwelling whose construction consists entirely of, or the major portions of its construction consist of, a unit or units not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities, pursuant to the Nebraska Uniform Standards for Modular Housing Units Act, as set forth in Neb. Rev. Stat. §§ 71-1557 to 71-1568.01 (Cum. Supp. 2000). Further, such dwelling must also meet or be equivalent to the construction criteria set forth in the Nebraska Uniform Standards for Modular Housing Units Act. Such dwelling is considered to be considered a mobile home.
  - d. Dwelling, Multiple Family: A building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other, and having separate kitchen and toilet facilities for each family.
11. Dwelling, seasonal: A dwelling designed and used as a temporary residence and occupied less than six months in each year.
12. Dwelling, Single Family: A building having accommodations for or occupied exclusively by one family, which meets all the following standards:
- a. The home shall have no less than nine hundred (900) square feet of floor area, above grade, for single story construction;
  - b. The home shall have no less than an eighteen feet (18') exterior width;
  - c. The roof shall be pitched with a minimum vertical rise of two and one-half inches (2½") for each twelve inches (12") of horizontal run;
  - d. The exterior material shall be of a color, material and scale comparable with existing site-built, single family residences located in Madison, Nebraska;

- e. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, rock, painted tin, or others as requested by the city;
  - f. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed;
  - g. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
  - h. The home shall have a permanent foundation, to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of forty-two inches (42") below the final ground level.
13. Dwelling, Single Family Attached: A portion of a residential building having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each such dwelling may be sold independently of other portions.
14. Dwelling, Townhouse: A one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical wall(s).
15. Dwelling, Two (2) Family: A building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family.
16. Dwelling Unit: One or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

208 **E**

- 1. Easement: A privilege or right of use granted on, above, under, or across a particular tract of land for a specific purpose by one owner to another owner, public or private agency, or utility.
- 2. Educational Institution: A Public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, and religious institutions. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, and commercial or private trade schools are not included in this definition.
- 3. Effective Date: The date that this chapter shall have been adopted, amended, or the date land areas became subject to the regulations contained in this chapter as a result of such adoption or amendment.
- 4. Enclosed: A roofed or covered space fully surrounded by walls.
- 5. Encroachment: An obstruction or illegal or unauthorized intrusion into a delineated floodway, right-of-way, or adjacent property.

6. Erected: Constructed upon or moved onto a site.
7. Extraterritorial Jurisdiction: The one-mile area beyond the corporate limits of the City, in which the State has granted the City the power to excise zoning jurisdiction and building regulations.

**209 F**

1. Façade: The exterior wall of a building exposed to public view from the building's exterior.
2. Family: One or more persons living together and sharing common living, sleeping, cooking, and eating facilities within an individual housing unit, no more than 2 of whom may be unrelated. The following persons shall be considered related for the purpose of this title:
  - a. Persons related by blood, marriage, or adoption;
  - b. Persons residing with a family for the purpose of adoption;
  - c. Not more than eight persons under 19 years of age, residing in a foster house licensed or approved by the State of Nebraska.
  - d. Not more than eight persons 19 years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the State of Nebraska.
  - e. Person(s) living with a family at the direction of a court.
3. Farm: An area containing at least twenty (20) acres or more which is used for growing or storage of the usual farm products, as well as for the raising thereon of the usual farm poultry and farm animals, and which produces revenue of no less than \$1,000 annually.
4. Farmstead: A tract of land of not less than two (2) acres and not more than twenty (20) acres upon which a farm dwelling and other out-buildings and barns and is used for single-family residential purposes.
5. Federal: Pertaining to the Government of the United States of America.
6. Fence: A structure serving as an enclosure, barrier or boundary above ground.
  - a. Fence, Open: A fence, including gates, which has fifty percent (50%) or more of the surface area in open spaces, which affords direct views through the fence.
  - b. Fence, Solid: Any fence, which does not qualify as an open fence.
7. Footprint, Building: The square feet of floor space within the outside line of the walls, including porches, attached garages, carports, or any other structure attached to the main building.
8. Flood: A general and temporary condition of partial or complete inundation of normally dry land areas from the, (1) The overflow of inland waters, or (2) The usual and rapid accumulation of runoff of surface waters from any sources.
9. Flood Plain: Any land area susceptible to being inundated by water from any source.

10. Flood Proofing: Any combination or structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
11. Floodway: The channel of a 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 a designated height.
12. Floor Area: The square feet of floor space within the outside line of the walls, including the total of all space on all floors of the building. Floor area shall not include porches, garages, or spaces in a basement, cellar, or attic.
13. Floor Area Ratio: The quotient of gross floor area divided by gross site area.
14. Foundation: That part of a building or wall, wholly or partly below grade that constitutes a structural base for such building or wall.
15. Frontage: The length of a property line of any one premise abutting and parallel to a public street, private way, or court.

210 **G**

1. Garage, Private: A detached accessory building or a portion of a main building, including carports, on the same lot as a dwelling, used to house vehicles of the occupants of the dwelling.
2. Garage, Public: Any garage other than a private garage.
3. Garage, Repair: A building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work.
4. Garbage: Any waste food material of an animal or vegetable nature, including that which may be used for the fattening of livestock.
5. Grade: The horizontal elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.
  - a. For buildings having walls facing one street only, the grade shall be the elevation of the sidewalk at the center of the wall facing the street.
  - b. For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.
  - c. For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.
6. Greenway: A parcel or parcels of land, together with the improvements thereon, dedicated as an easement for access and/or recreation; usually a strip of land set-aside for a walk-way, bicycle trail, bridle path, or other similar access-way.

7. Ground Cover: Plant material used in landscaping which remains less than twelve inches (12") in height at maturity.
8. Ground Water: Water occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.
9. Group Care Home: A home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four hour care for individuals in a residential setting.
10. Group Home for the Handicapped: A dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as having: (1) A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; or (2) A record of having such an impairment.

211 H

1. Half-Story: A story under a sloped roof which has the intersection of the roof line and exterior wall face not more than three feet (3') above the floor of such story.
2. Halfway House: A licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.
3. Hazardous Waste: Any discarded material, refuse, or waste products, in solid, semisolid, liquid, or gaseous form, that cannot be disposed of through routine waste management techniques because they pose a present or potential threat to human health, or to other living organisms, because of their biological, chemical, or physical properties.
4. Height: The vertical distance from the established grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, or to the average height between eaves and the ridge for gable, hip, shed, or gambrel roofs. For other cases, height shall be measured as the vertical distance from the established grade to the highest point of a structure as herein defined. Where a building or structure is located on a slope, height shall be measured from the average grade level adjacent to the building or structure.
5. Home Based Business/Home Occupation: An "in-home" or "home based" or entrepreneurial business operating from a residential dwelling within Madison's zoning jurisdiction. Home occupations are considered conditional uses to properties in all zoning districts. Any portion of a residential property, including a home phone, computer, mailing address, etc., used in deriving income or sales, will require a resident to obtain a Home Occupation Permit. Child Care Homes, Child Care Centers, and farming operations are exempt from Home Occupation Permits except for any signage restrictions.

6. Homeowners Association: A private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.
7. Household Pet: An animal that is customarily kept for personal use or enjoyment within the home. Household shall include and is limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.
8. Housing Unit or Dwelling Unit: A building or portion of a building arranged for and intended for occupancy as an independent living facility for one family.

**212**     **I**

1. Impervious coverage: The total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition.
2. Incidental Use: A use, which is subordinate to the main use of a premise.
3. Industry: The manufacture, fabrication, processing, reduction or destruction of any article, substance, or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof, including storage elevators, truck storage yards, warehouses, wholesale storage, and other similar types of enterprise.
4. Inoperable Motor Vehicle: Any motor vehicle which: (1) Does not have valid state license plates ; or (2) Which may or may not have valid license plates, but is disassembled or wrecked in part or whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle that is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.

**213**     **I**

1. Junk: Any worn-out, cast-off, old, or discarded articles of scrap metal, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked vehicles, or parts thereof, and other old or scrap ferrous or nonferrous material.
2. Junk or Salvage Yard: Any lot, land parcel, building, or structure thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment resulting from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see "Automobile Wrecking Yard."

**214**     **K**

1. Kennel, Commercial: An establishment where four (4) or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four (4) months of age are groomed, bred, boarded, trained, or sold as a business.

2. Kennel, Private: Any premises used for keeping of less than four (4) dogs, cats, or a combination thereof by the owner/occupant of the premises for the purposes of show, hunting, or as pets. The dogs and/or cats shall belong to the owner/occupant or occupant and their keeping shall be accessory to the main use of the premises.

215 L

1. Landscaped Area: The area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.
  - a. Perimeter Landscaped Area: Any required landscaped area that adjoins the exterior boundary of a lot, site or common development.
  - b. Interior Landscaped Area: Any landscaped area within a site exclusive of required perimeter landscaping.
    - i. Loading Area: An off-street area used for the loading or unloading of goods from a vehicle in connection with the use of the site on which such area is located.
    - ii. Lot: A parcel of property with a separate and distinct number or other identifying designation which has been created, assigned and recorded in the Office of the Madison County Register of Deeds, as provided for by Sections 16-902, 16-903, 19-916, 19-918, and 19-921 Revised Statutes of Nebraska, 1943. Each individual lot is subject to the provisions of a particular base Zoning District, and shall have a minimum frontage of 20 feet, except as provided in an approved Planned Unit Development and/or Creative Subdivision.
  - c. Corner Lot: A lot located at the junction of at least two streets, private ways or courts or at least two segments of a curved street, private way or court, at which the angle of intersection is no greater than 135 degrees.
  - d. Double Frontage Lot: A lot, other than a corner lot, having frontage on two streets, private ways or courts. Primary access shall be restricted on a double frontage lot to the minor of the two streets or to the front line as determined at time of platting or as defined by this ordinance. (Also known as a Through Lot)
  - e. Interior Lot: A lot other than a corner lot.
  - f. Common Development Lot: When two or more contiguous lots are developed as part of a Planned Unit Development, these lots may be considered a single lot for purposes of this ordinance.
2. Lot Area: The total horizontal area within the lot lines of a lot.
3. Lot Depth: The mean horizontal distance measured between the front and rear lot lines.

4. Lot Line: A property boundary line(s) of record that divides one lot from another lot or a lot from the public or private street right-of-way or easement. Once established, lot lines may not be redefined due to a change of address which would result in a new definition of the prior defined lot lines.
5. Front Lot Line: The lot line separating a lot and a public or private street right-of-way or easement.
  - a. For an interior lot, the lot line separating the lot from the right-of-way or easement.
  - b. For a corner lot, the shorter lot line abutting a public or private street or easement. In instances of equal line dimension, the front lot line shall be determined by the Planning Director, or as may be noted on the final plat.
  - c. For a double frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Planning Director at the time of application for the original building permit for the lot, or as may be noted on the final plat.
6. Rear Lot Line: The lot line which is opposite and most distant from the front line.
7. Side Lot Line: Any lot line that is neither a front or rear lot line. A side lot line separating a lot from a street, private way or court is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
8. Lot Width: The horizontal distance measured between the side lot lines of a lot, at right angles to its depth along a straight line parallel to the front lot line at the minimum required setback line.

**216**    **M**

1. Manufacturing: Uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment.
2. Miscellaneous Structures: Structures other than buildings, visible from public ways. Examples are memorials, stagings, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, and transformers.
3. Mixed Use Building: A building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.
4. Mixed Use Development: A single development which incorporates complementary land use types into a single development.
5. Mobile Homes: A building type designed to be transportable in one or more sections, constructed on a permanent chassis or undercarriage, and designed to be used as a dwelling unit or other use with or without a permanent foundation when connected to the required utilities, but not bearing a seal attesting to the approval and issuance of the Nebraska Department of Health or conformance to the manufactured home procedural and enforcement regulations, as

adopted by the US Department of Housing and Urban Development; or not otherwise satisfying the definition of Manufactured Home Dwellings.

6. Mobile Home Park: A unified development under single ownership, developed, subdivided, planned, and improved for the placement of mobile home units for non-transient use. Mobile Home Parks include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purposes of display, inspection, sale, or storage.
7. Mobile Home Subdivision: A development subdivided, planned, and improved for the placement of mobile home units on lots for uses by the individual owners of such lots. Mobile Home Subdivisions may include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purpose of display, inspection, sale, or storage.
8. Motor Vehicle: Every self-propelled land vehicle not operated upon rails, except self-propelled wheel chairs.

217 N

1. Nonconforming Development: A building, structure, or improvement which does not comply with the regulations for its zoning district set forth by this Zoning Ordinance but which complied with applicable regulations at the time of construction.
2. Nonconforming Lot: A lot which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the lot.
3. Nonconforming Sign: A sign that was legally erected prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance.
4. Nonconforming Structure: A structure which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the structure.
5. Nonconforming Use: A land use which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the land use.
6. Nuisance: An unreasonable and continuous invasion of the use and enjoyment of a property right which a reasonable person would find annoying, unpleasant, obnoxious, or offensive.

218 O

1. Official Zoning District Map: A map delineating the boundaries of zoning districts which, along with the zoning text is officially adopted by the Madison City Council.
2. Off-Street Parking Area: All off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.
3. Open Space: Area included on any site or lot that is open and unobstructed to the sky, except for allowed projections of cornices, overhangs, porches, balconies, or plant materials.
4. Open Space, common: A separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development.
5. Outdoor Storage: The storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.
6. Overlay District: A district established by this Ordinance to prescribe special regulations to be applied to a site only in combination with a base district.
7. Owner: An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

**219**     **P**

1. Parcel: A lot or contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.
2. Parking Area, Private: An area, other than a street, used for the parking of automotive vehicles capable of moving under their own power, and restricted from general public use.
3. Parking area, Public: An area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free of for remuneration.
4. Parking Spaces: An area on a lot and/or within a building, intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with “parking stall”. Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached, and townhouse residential uses shall be considered to have a means of access to a public street.
5. Party Wall: A common wall without doors, windows or openings, dividing two individual residential units. This wall can also divide the ownership of the residential units between or more individuals.
6. Party Wall Agreement: An agreement establishing a party wall between two residential units.
7. Paved: Permanently surfaced with poured concrete, concrete pavers, or asphalt.
8. Performance Guarantee: A financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed in compliance with these regulations as well as with approved plans and specifications of a development.

9. Permanent Foundation: A base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.
10. Permitted Use: A land use type allowed as a matter of right in a zoning district, subject only to special requirements of this Zoning Ordinance.
11. Planning Commission: The Madison County Joint Planning Commission, as authorized pursuant to Sections 19-924 through 19-929, inclusive of Nebraska Revised State Statutes.
12. Planned Unit Development: A development of land which is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.
13. Plant Materials: Trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs, and other such vegetation.
14. Plat: A map showing the location, boundaries, and legal description of individual properties.
15. Policy: A statement or document of the City, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.
16. Porch, Unenclosed: A roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty inches above its floor other than wire screening and a roof with supporting structure.
17. Premises: A lot, parcel, tract or plot of land, contiguous and under common ownership or control, together with the buildings and structure thereon.
18. Principal Structure: The main building or structure on a lot, within which the main or primary use of the lot or premises is located.
19. Private Garage: A building for the storage of motor vehicles where no repair service facilities are maintained and where no motor vehicles are kept for rental or sale.
20. Promotional Device: Any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping shall be considered a promotional device.
21. Property Line: See "Lot Line."
22. Protected Zone: All lands that fall outside the buildable area of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of the Zoning Regulations.

23. Public Water Supply: A water supply system designed to provide public piped water fit for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals.

220 Q

221 R

1. Recreational Vehicle: A vehicle towed or self propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational, or sporting purposes. Recreational vehicles include, but are not limited to, travel trailers; campers; motor coach homes; converted buses and trucks, boats, and boat trailers.
2. Recreational Vehicle (RV) Park: A tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.
3. Regulation: A specific requirement set forth by this Zoning Ordinance which must be followed.
4. Remote Parking: A supply of off-street parking at a location not on the site of a given development.
5. Residence: A building used, designed, or intended to be used as a home or dwelling place for one (1) or more families.
6. Retention Basin: A pond, pool, or basin used for the permanent storage of stormwater.
7. Reverse Spot Zoning: An arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual owner largely to secure some public benefit. Reverse spot zoning usually results from down-zoning a tract of land to a less intensive use classification than that imposed on nearby properties.
8. Rezoning: An amendment to or change in the zoning regulations either to the text or map or both.
9. Rezoning, Piecemeal: The zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.
10. Right-Of-Way: The strip of land on which a public street is built.
11. Road, Private: A way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties.
12. Road, Public: All public rights-of-way reserved or dedicated for street or road traffic.

222 S

1. Satellite Dish Antenna: A round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves.
2. Screening: The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features as may be permitted by the landscape provisions of this ordinance.
3. Selective Clearing: The careful and planned removal of trees, shrubs, and plants using specific standards and protection measures.
4. Self-Service Storage Facilities: A building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.
5. Septic Site: The area bounded by the dimensions required for the proper location of the septic tank system.
6. Setback Line, Front Yard: The line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line or highway setback line when one has been established.
7. Setback Line, Rear Yard or Side Yard: The line which defines the width or depth of the required rear or side yard. Said setback shall be parallel with the property line, removed therefrom by the perpendicular distance prescribed for the yard in the district.
8. Setback Line Measurement: The shortest perpendicular distance between any property line and the face of the building, at grade level.
9. Sight Triangle: An area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2½') and ten feet (10') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersections of the centerline of the streets, ninety feet (90') in each direction along the centerline of the streets.
10. Sign: A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land, which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.
11. Site: The parcel of land to be developed or built upon. A site may encompass a single lot; or a group of lots developed as a common development under the special and overlay districts provisions of this ordinance.
12. Site Plan: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land; and any other information that may be reasonably be requested by the County in order that an informed decision can be made on the associated request.
13. Solid Waste: Waste materials consisting of garbage, trash, refuse rubble, sewage, offal, dead animals, or paunch manure.

14. Specified Anatomical Areas: Anatomical areas consisting of:
  - a. Less than completely and opaquely human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and,
  - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
15. Specified Sexual Activities: Activities consisting of the following:
  - a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the conduct: anilingus, buggery, coprophagy, coprophila, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or
  - b. Clearly depicted human genitals in the state of sexual stimulation, arousal, tumescence; or
  - c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, masturbation; or
  - d. Fondling or touching of nude human genitals, pubic region, buttocks, female breast(s); or
  - e. Situation involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such persons; or
  - f. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
  - g. Human excretion, urination, menstruation, vaginal, or anal irrigation.
16. Spot Zoning: An arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an upzoning to a more intensive use classification.
17. Standard System: A sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.
18. Stockpiling: The accumulation of manure in mounds, piles, or other exposed and non-engineered site locations for storage or holding purposes for a period of not more than one (1) year.
19. Storage: The keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more that thirty (30) days.
20. Storm Drain: A conduit that carries natural storm and surface water drainage but not sewage and industrial wastes, other than unpolluted cooling water.
21. State: The State of Nebraska.

22. Story: The portion of a building included between the surface of any floor and the surface of the next floor above it; if there is no floor above it, the space between such floor and the next ceiling above it. A half story is a story under a sloped roof, the wall heights of which on at least two opposite, exterior walls are less than four feet.
23. Street: A right of way, dedicated to public use, which affords a primary means of access to the abutting property. This definition is intended to be inclusive of the term as defined in Nebraska statute.
24. Street, Intersecting and Principal: In regard to a site, the principal street shall be the street to which the majority of lots on a blockface are oriented; the intersecting street shall be a street other than a principal street.
25. Street, Local: A street which is used primarily for access to the abutting properties.
26. Street, Major: A street carrying traffic between neighborhoods, connecting neighborhoods with major activity centers, or accommodating major through traffic. Major streets are designated as collectors, arterials, or expressways by the Comprehensive Development Plan.
27. Street, Minor: A street whose sole function is to provide access to abutting properties. In cases of double frontage lots, the minor street is the one that serves fewer uses and which is designed to handle fewer auto trips per day than adjacent streets.
28. Street Yard: The area of a lot or parcel which lies between any street property line and the fronting walls of any building or buildings on the parcel. The street yard follows all irregularities or indentations in the building, excluding minor irregularities such as porches or steps.
29. Structure: Any object constructed or built, the use of which requires location on the ground or attachment to something located on the ground.
30. Subdivision: the division of a lot, tract, or parcel of land into two (2) or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future, provided the smallest lot created by the division is less than ten (10) acres in size.
31. Surface Waters: All waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

**223**    **I**

1. Temporary Use: A use intended for limited duration to be located in a zoning district not permitting such use.
2. Tiny Home: A residential structure of 900 feet or less, either on wheels or a foundation. Considered an accessory use.

3. Tower: A structure situated on a site that is intended for transmitting or receiving television, radio, satellite, or telephone communications. (Also, see Antenna.)
4. Townhouse: A dwelling unit having a party (common) wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit.
5. Townhouse Structure: A building formed by at least two and not more than twelve contiguous townhouses with common or abutting walls.
6. Tract: A lot or contiguous groups of lots in a single ownership or under a single control usually considered a unit for purposes of development.

**224**    **U**

1. Use: The conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.
  - a. Use, Best: The recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes health, safety and general welfare.
  - b. Use, Highest: An appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.
  - c. Use, Permitted: Any land use allowed without condition within a zoning district.
  - d. Use, Principal: The main use of land or structure, as distinguished from an accessory use.
  - e. Use, Prohibited: Any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.
2. Used Materials Yard: Any lot or a portion of any land used for the storage of used materials. This shall not include "Junk Yards" or "Automobile Wrecking Yards."
3. Utilitarian Structure: A structure or enclosure relating to mechanical or electrical services to a building or development.
4. Utilities: Installations, either above or below ground, necessary for the production, generation, transmission, delivery, collection, treatments, or storage of water, solid or fluid wastes, storm water, energy media, gas, electronic or electromagnetic signals, or other services which are precedent to development and use of land.
5. Utility Easement: The same as "Easement."

**225**    **V**

1. Variance: A relief from or variation of the provisions of this chapter, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.

2. Vegetation: All plant life; however, for purposes of this Zoning Ordinance it shall be restricted to mean trees, shrubs, and vines.
3. Vehicle: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks. (Also, see Motor Vehicle.)
4. Visual Obstruction: Any fence, hedge, tree, shrub, wall or structure exceeding two (2) feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight (8) feet.

226 W

1. Wetland: An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

227 X

228 Y

1. Yard; Required: That portion of a lot which lies between a lot line and the corresponding building setback line or the required landscape area. This area shall be unoccupied and unobstructed from the ground upward except as may be specifically provided for or required by this ordinance.
  - a. Front Yard: The space extending the full width of a lot, lying between the front lot line and the front setback line.
  - b. Rear Yard: The space extending the full width of a lot, lying between the rear lot line and the rear setback line.
  - c. Side Yard: The space extending the depth of a lot from the front to rear lot lines, lying between the side yard setback line and the interior lot line.
  - d. Street Side Yard: On a corner lot, the space extending from the front yard to the rear yard, between the street side yard setback line and the street side lot line.

2. Yard, Street: See Street Yard

229 Z

1. Zero Setback Lot Line: A townhouse or duplex separated by a Party Wall and a Party Wall Agreement may have a Zero Setback Lot Line established for the purposes of dividing ownership of the townhouse or duplex.
2. Zoning Administrator: The designee of the City Council, responsible for the interpretation and administration of Madison Zoning Ordinance.

3. Zoning District: A designated specified land classification, within which all sites are subject to a unified group of use and site development regulations set forth in this Zoning Ordinance.
4. Zoning District, Change of: The legislative act of removing one (1) or more parcels of land from one (1) zoning district and placing them in another district on the zoning map of the City.



# 3

## ARTICLE THREE

### USE TYPES

#### 301 Purpose

Article Three shall be known as the Use Types. The purpose of the Use Types is to establish a classification system for land uses and a consistent set of terms defining uses permitted or conditionally permitted within various zoning districts. The Use Types section also provides a procedure for determining the applicable use type of any activity not clearly within any defined use type.

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute.

#### 302 Determinations

##### 1. Classification of Uses

In the event of any question as to the appropriate use types of any existing or proposed use or activity, the Zoning Administrator of the City of Madison shall have the authority to determine the appropriate use type. A determination of the Zoning Administrator may be appealed to the Board of Adjustment. In making such determinations, the Zoning Administrator and Board of Adjustment shall consider such characteristics or specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists.

##### 2. Records

The Zoning Administrator shall make all such determinations of appropriate use types in writing. The record of the determination shall contain a report explaining the reasons for the determination.

#### 303 Agricultural Use Types

Agricultural use types include the on-site production and sale of plant and animal products by agricultural methods.

##### Horticulture and Crop Production:

The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.

Retail operation of garden centers or roadside stands associated with a primary agricultural use may be permitted in the AG and TA Districts, subject to the following requirements:

##### 1. Garden Centers

- a. A garden center is a building or premises used for the retail sale of plant materials or items useful in the growing or display of lawns, gardens, and plants.
- b. Garden centers must conform to all site development regulations for the zoning district.
- c. Any garden center adjacent to a residential district must maintain a 20-foot landscaped buffer, consistent with the standards established in Section 615..

## 2. Roadside Stands

- a. A roadside stand is a facility used on a temporary or seasonal basis for the retail sale of produce grown largely on adjacent or surrounding agricultural lands.
- b. A roadside stand may be located within a required front yard but no closer than 40 feet to the edge of a traveled roadway.
- c. A roadside stand may operate for a maximum of 180 days in any one year.

### Crop Production

The raising and harvesting of tree crops, row crops for field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

### Type I Animal Production

The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis on a site which is also used for crop production or where grazing of natural vegetation is the major feed source; or the raising of animals for recreational use. Type I Animal Production shall also include confined feeding and holding facilities consisting of no more than 20 feeder or fat cattle; no more than 20 beef cows; no more than 20 dairy cattle; no more than 50 swine, llamas, and ostriches or similar large birds; no more than 200 sheep; no more than 300 turkeys; and/or no more than 1,000 chickens, ducks, or geese. Typical uses include grazing, ranching, dairy farming, and poultry farming.

1. Breeding and the raising of small animals and fowl, such as birds, rabbits, chinchilla, and hamsters is permitted in the AG District, provided that any building housing such animals shall be at least 50 feet from any property line and 25 feet from any dwelling unit on the site.
2. Within the RT District, any lot of two-and-one-half (2½) acres and over may maintain one horse, llama, or other equine and/or hoofed animal and its immature offspring. Such a lot may have one additional animal for each additional two acres of lot area, up to a maximum total of three animals. No stable shall be located closer than 50 feet to any dwelling unit on the site.

### Type II Animal Production

The confined feeding and holding facilities consisting of between 21 and 150 feeder or fat cattle; between 21 and 100 beef cows; between 21 and 100 dairy cattle; between 51 and 500 swine, llamas, and ostriches or similar large birds; between 201 and 2,000 sheep; between 301 and 3,000 turkeys; and/or between 1,001 and 10,000 chickens, ducks, or geese within buildings, lots, pens, or other close quarters which are not used for crop production or where grazing of natural vegetation is not the major feed source. Typical uses include small commercial feedlots.

1. Location
  - a. Any new Type II Animal Production use established within the RT District shall be subject to approval of a Conditional Use Permit, as set forth in Section 502.
  - b. No confinement area for the feeding or holding of livestock or poultry shall be located within 500 feet of the property lines of the parcel on which it is located; or within 1,320 feet of an existing residential structure other than that of the owner or operator of the facility.
2. Operation
  - a. Livestock wastes within a confinement area shall be removed or disposed of by spraying or spreading on land promptly followed by discing or plowing; grinding or dehydrating in properly

designed dehydrators; or stockpiling in a compost plant located at least one mile from a residential zoning district.

- b. Insect and rodent control measures must be instituted for confined areas by removal or disposal of manure; or by other accepted insect or rodent control measures.
3. Drainage
    - a. All ground surfaces within confinement areas shall be graded and compacted to insure proper drainage.
    - b. All ground surfaces within confinement areas shall be controlled so that no appreciable amount of soil and livestock waste is carried into any roadway ditch, drainage area, or other low-lying area.
  4. Pollution Control
    - a. A confined area shall not produce a measurable increase in pollution in any public water-based recreational facility, public water supply, or in any waterway that is part of a public or private water supply.

#### Type III Animal Production

The confined feeding and holding facilities consisting of more than 150 feeder or fat cattle; more than 100 beef cows; more than 100 dairy cattle; more than 500 swine, llamas, and ostriches or similar large birds; more than 2,000 sheep; more than 3,000 turkeys; and/or more than 1,001 and 10,000 chickens, ducks, or geese within buildings, lots, pens, or other close quarters which are not used for crop production or where grazing of natural vegetation is not the major feed source. Typical uses include large commercial feedlots.

1. Location
  - a. Any new Type III Animal Production use established within the AG District shall be subject to approval of a Conditional Use Permit, as set forth in Section 502.
  - b. No new Type III Animal Production shall be established in any other zoning district.
  - c. No new Type III Animal Production use shall be located within 500 feet of the property lines of the parcel on which it is located; or within 1,320 feet of an existing residential structure other than that of the owner or operator of the facility.
2. Operation
  - a. Livestock wastes within a confinement area shall be removed or disposed of by spraying or spreading on land promptly followed by discing or plowing; grinding or dehydrating in properly designed dehydrators; or stockpiling in a compost plant located at least one mile from a residential zoning district.
  - b. Insect and rodent control measures must be instituted for confined areas by removal or disposal of manure; or by other accepted insect or rodent control measures.
3. Drainage
  - a. All ground surfaces within confinement areas shall be graded and compacted to insure proper drainage.
  - b. All ground surfaces within confinement areas shall be controlled so that no appreciable amount of soil and livestock waste is carried into any roadway ditch, drainage area, or other low-lying area.

- c. Water shall not be discharged or directed from a Type III animal production site onto adjacent properties, except in the event of a storm with a 4% probability of occurrence within a 24-hour period.
4. Pollution Control
- a. A confined area shall not produce a measurable increase in pollution in any public water-based recreational facility, public water supply, or in any waterway that is part of a public or private water supply.
5. General Standards
- a. All aspects of the operation of a Type III Animal Production facility shall comply with the regulations and standards of the Nebraska Department of Environmental Quality or its successor agencies for feedlots.
  - b. In addition to other requirements, all applications for Special Use Permits for the establishment of a Type III Animal Production use shall include: certifications of plan review and approval by the Nebraska Department of Environmental Quality or its successor agencies; a site plan showing the location and maximum area of the confinement area; and a detailed description of operations, including maximum number and type of livestock to be confined, livestock waste removal or disposal plans, drainage plans, and pollution control measures.

Livestock Sales

Use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sales barns.

**304 Residential Use Types**

Residential use types include uses providing wholly or primarily non-transient living accommodations. They exclude institutional living arrangements providing 24-hour skilled nursing or medical care, forced residence, or therapeutic settings.

Single-Family Residential

The use of a site for one dwelling unit, occupied by one family. (NOTE: Mobile home units are not a single-family use type. See below categories for such units).

1. Single-Family Residential (Detached): A single-family residential use in which one dwelling unit is located on a single lot, with no physical or structural connection to any other dwelling unit.
2. Single-Family Residential (Attached): A single-family residential use in which one dwelling unit is located on a single lot and is attached by a party wall (common) vertical wall to only one other adjacent dwelling unit on another single lot.
  - a. Within a common development, one interior side yard may be equal to zero for single-family detached residential use, subject to the following additional regulations:
    - i. The side yard opposite to the zero yard must equal at least twice the normal required side yard.
    - ii. The normal side yard setback requirement must be maintained adjacent to any lot with an existing structure not within the common development; or not otherwise designated for zero lot line use.
    - iii. A party wall agreement shall be filed with the Madison County Register of Deeds and the City Clerk at the time of application for a building permit.

### Duplex Residential

The use of a legally described lot for two dwelling units, each occupied by one family within a single building, excluding manufactured or mobile home units, but including modular housing units.

### Two-Family Residential

The use of a site for two dwelling units, each occupied by one family, each in a separate building, excluding a mobile home unit.

### Townhouse Residential

The use of a site for three or more attached dwelling units, each occupied by one family and separated by vertical side walls extending from foundation through roof without openings. Each townhouse unit must have at least two exposed exterior walls.

Where permitted, townhouse residential is subject to the following regulations:

1. The lot area must be 3,000 square feet per unit in the R-2 District and 2,500 square feet in all other districts where permitted.
2. The minimum width for any townhouse lot sold individually shall be twenty-five feet (25'), except within an approved subdivision.
3. Coverage percentages are computed for the site of the entire townhouse common development.

### Multiple-Family Residential

The use of a lot for three or more dwelling units within one building.

### Downtown Residential

The use of upper levels above street level of a building within the Central Business District of the City of Madison for single- or multiple-family residential uses. Downtown and Group Residential uses are permitted in the C2 District only on levels above street level except that a unit specifically designed for occupancy by disabled residents may be developed at street level, subject to approval of a special permit by the City Council with the recommendation of the Joint Planning Commission.

### Group Residential

The use of a site for a residence by more than three unrelated persons, not defined as a family, on a weekly or longer basis.

### Manufactured Home Residential

Use of a site for one or more manufactured home dwellings, as defined in Section 216.

### Mobile Home Park

Use of a site under single ownership for one or more mobile home units. Generally, the land on which mobile homes are placed in a Mobile Home Park is leased from the owner of the facility.

### Mobile Home Subdivision

Division of a tract of land into lots that meet all the requirements of the City of Madison's subdivision ordinance for the location of mobile homes. Generally, a lot within a Mobile Home Subdivision is owned by the owner of the mobile home placed upon such lot.

### Retirement Residence

A building or group of buildings which provide residential facilities for more than four residents of at least sixty-two years of age, or households headed by a householder of at least sixty-two years of age. A retirement residence may provide a range of residential building types and may also provide support services to residents, including but not limited to food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences may include additional health care supervision or nursing care.

## **305 Civic Use Types**

Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses which are strongly vested with social importance.

### Administration

Governmental offices providing administrative, clerical or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county, and city offices.

### Cemetery

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoria, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

### Clubs

Uses that provide meeting, recreational, or social facilities for a private, nonprofit or noncommercial association, primarily for use by members and guests. Clubs located adjacent to residential uses shall maintain a buffer of not less than 25 feet along the common boundary with such residential use.

### College and University Facilities

An educational institution of higher learning which offers a course of study designed to culminate in the issuance of a degree certified by a generally recognized accrediting organization.

### Convalescent Services

A use providing bed care and inpatient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. Typical uses include nursing homes.

### Cultural Services

A library, museum, or similar registered nonprofit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

### Day Care Services: State Classifications and Definition of Limited and General Types

The zoning provisions of this ordinance recognize the facility classification system established by the State of Nebraska as follows:

1. Day Care: Center - Licensed (Type I). A facility licensed by the State of Nebraska providing care for children:
  - a. Age eleven or younger from more than one family;
  - b. On the average of less than 12 hours per day, but more than 2 hours per week.
  - c. For compensation, either indirectly or directly;
  - d. On a regular basis;
  - e. In lieu of parental supervision;
  - f. Licensed by the State of Nebraska for not more than twenty-two (22) children.
  
2. Day Care: Center - Licensed (Type II). A facility licensed by the State of Nebraska providing care for children:
  - a. Age eleven or younger from more than one family;
  - b. On the average of less than 12 hours per day, but more than 2 hours per week.
  - c. For compensation, either indirectly or directly;
  - d. On a regular basis;
  - e. In lieu of parental supervision;
  - f. Licensed by the State of Nebraska for more than twenty-two (22) children.
  - g. Day Care Family-Licensed. A facility licensed by the State of Nebraska providing care for more than four (4) but not more than eight (8) children:
    - i. Age eleven or younger from more than one family;
    - ii. On the average of less than 12 hours per day, but more than 2 hours per week;
    - iii. For compensation, either directly or indirectly;
    - iv. On a regular basis;
    - v. In lieu of parental supervision;
  
3. Day Care: Group Day Care Home - Licensed. A facility licensed by the State of Nebraska in the business of providing care to not more than twelve (12) children under the following circumstances:
  - a. Age eleven or younger from more than one family;
  - b. For less than 12 continuous hours per child per day;
  - c. For compensation, either directly or indirectly;
  - d. On a regular basis;
  - e. In lieu of parental supervision;
  - f. By persons other than their parents/guardians.

Day Care Services (Limited)

This Use Type includes all classifications of day care facilities regulated by the State of Nebraska that operate providing care for not more than eight (8) children. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.

Day Care Services (General)

This Use Type includes all classifications of day care facilities regulated by the State of Nebraska that operate providing care for more than eight (8) children. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.

Detention Facilities

A publicly operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

Emergency Residential Services

A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.

### Group Care Facility

A facility licensed or approved by the State of Nebraska or other appropriate agency, which provides for the care and short or long-term, continuous multi-day occupancy of more than three unrelated persons who require and receive therapy or counseling on site as part of an organized and therapeutic ongoing program for any of the purposes listed below. Such facilities shall exclude those uses defined as group homes. Group Care Facilities include facilities which provide for the:

1. Adaptation to living with, or rehabilitation from, the handicaps of physical disability.
2. Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorder; or of mental retardation if such facility has an overnight occupancy of more than eight persons.
3. Rehabilitation from the effects of drug or alcohol abuse.
4. Supervision while under a program alternative to imprisonment, including but not limited to pre-release, work-release, and probationary programs.
5. Each group care facility or group home must be validly licensed by either the State of Nebraska or the appropriate governmental subdivision.
6. Group homes are permitted in the C2 District only on levels above street level except that a facility specifically designed for occupancy by disabled residents may be developed at street level, subject to approval of a special permit by the City Council with the recommendation of the Joint Planning Commission.

### Group Home

A facility licensed by the State of Nebraska in which at least four but no more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training, or counseling for the purpose of adaptation to living with or rehabilitation from cerebral palsy, autism, or mental retardation.

### Guidance Services

A use providing counseling, guidance, recuperative, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a daytime care basis.

### Health Care

A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an outpatient basis including emergency treatment, diagnostic services, training, administration and services to outpatients, employees, or visitors.

### Hospital

A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an inpatient basis, including emergency treatment, diagnostic services, training, administration, and services to patients, employees, or visitors.

### Maintenance Facilities

A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment service centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

### Park and Recreation Services

Publicly-owned and operated parks, playgrounds, recreation facilities, and open spaces.

### Postal Facilities

Postal services, including post offices, bulk mail processing or sorting centers operated by the United States Postal Service.

### Primary Educational Facilities

A public, private, or parochial school offering instruction at the elementary school level in the branches of learning study required to be taught in schools within the State of Nebraska.

### Public Assembly

Facilities owned and operated by a public agency or a charitable nonprofit organization accommodating major public assembly for recreation, sports, amusement, or entertainment purposes. Typical uses include civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, incidental sales, and exhibition facilities.

### Religious Assembly

A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto (excluding private primary or private secondary educational facilities, community recreational facilities, day care facilities, and incidental parking facilities). A property tax exemption obtained pursuant to Property Tax Code of the State of Nebraska shall constitute prima facie evidence of religious assembly use.

### Safety Services

Facilities for administration of, and to conduct public safety and emergency services including police and fire protection services and emergency medical and ambulance services.

### Secondary Educational Facilities

A public, private, or parochial school offering instruction at the junior high or high school level in the branches of learning and study required to be taught in the schools of the State of Nebraska.

### Utilities

Any above ground structures or facilities, other than lines, poles, and other incidental facilities, used for the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, delivery, collection, or storage of water, sewage, electricity, gas, oil, energy media, communications, electronic or electromagnetic signals, or other services which are precedent to development and/or use of land.

## **306 Office Use Types**

Office use types include uses providing for administration, professional services, and allied activities. These uses often invite public clientele but are more limited in external effects than commercial uses.

### General Offices

Use of a site for business, professional, or administrative offices. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; banks or financial offices; or professional offices.

### Financial Services

Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, savings banks, and loan companies. An ATM (Automatic Teller Machine) which is not accompanied on-site by an office of a its primary financial institution is considered a "General Retail Services" Use Type.

### Medical Offices

Use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar practitioners licensed for practice in the State of Nebraska.

## **307 Commercial Use Types**

Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

### Agricultural Sales and Service

Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.

### Automotive and Equipment Services

Establishments or places of business primarily engaged in sale and/or service of automobiles, trucks, or heavy equipment. The following are considered automotive and equipment use types:

1. Automotive Rental and Sales: Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships; motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.
  - a. All outdoor display areas for rental and sales facilities shall be hard-surfaced.
  - b. Body repair services are permitted as an accessory use to automobile rental and sales facilities, provided that such repair services shall not exceed 25% of the gross floor area of the building.
2. Auto Services: Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning and/or repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, and similar repair and service activities but exclude dismantling, salvage, or body and fender repair services.
3. Auto Washing Facilities: Automated or self-serve washing and/or paint protection.
  - a. Each conveyor operated auto washing facility shall provide 100 feet of stacking capacity per washing lane on the approach side of the washing structure and stacking space for two vehicles on the exit side.
  - b. Each self-service auto washing facility shall provide stacking space for three automobiles per bay on the approach side and one space per bay on the exit side of the building.

4. **Body Repair:** Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.
  - a. Where permitted in commercial districts, all repair activities must take place within a completely enclosed building. Outdoor storage is permitted only where incidental to Auto Repair and Body Repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-ways. Screening is subject to provisions of Article 8 of this ordinance.
  - b. Any spray painting must take place within structures designed for that purpose and approved by the Building Inspector.
5. **Equipment Rental and Sales:** Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.
6. **Equipment Repair Services:** Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.
7. **Vehicle Storage:** Storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage of operating or non-operating vehicles beyond 21 days constitutes an Industrial Use Type.

#### Bed and Breakfast

Conversion of a structure or group of structures for lodging use, providing no more than ten units, one of which must be occupied by the owner of the premises, and furnishing guests with breakfast and other incidental services.

Bed and Breakfasts permitted in the C2 and C3 Districts must provide any sleeping facility only on levels above street level except that units specifically designed and reserved for occupancy by handicapped people may be located on the street level.

#### Business Support Services

Establishments or places of business primarily engaged in the sale, rental or repair of equipment, supplies and materials or the provision of services used by office, professional and service establishments to the firms themselves but excluding automotive, construction and farm equipment; or engaged in the provision of maintenance or custodial services to businesses. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, janitorial services, photography studios, and convenience printing and copying.

#### Business or Trade Schools

A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.

#### Campgrounds

Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents, which accommodate each guest or visitor for no more than 7 consecutive days during any one month period.

1. Minimum Size: Each campground established after the effective date of this title shall have a minimum size of one acre.
2. Setbacks: All campgrounds shall maintain a 50-foot front yard setback and a 25-foot buffer from all other property lines.
3. Each campground must maintain water supply, sewage disposal, and water and toilet facilities in compliance with all City ordinances; or, alternately, be limited to use by self-contained campers, providing their own on-board water and disposal systems.

#### Cocktail Lounge

A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.

#### Commercial Recreation (Indoors)

Private businesses, or other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. The preponderance of activities occur within enclosed structures. Typical uses include movie theaters, private dance halls, or private skating facilities.

#### Commercial Recreation (Outdoors)

Private businesses, or other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. The preponderance of activities occur outside of enclosed structures. Typical uses include driving ranges, commercial race tracks, and drive-in theaters.

#### Communications Services

Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as Utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities. Broadcast towers, and their minor ancillary ground structures are classified as "Miscellaneous Use Types."

#### Construction Sales and Services

Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures and hardware. This use type excludes those uses classified under Automotive and Equipment Services. Typical uses include building materials sales, or tool and equipment rental or sales.

#### Consumer Services

Establishments which provide services, primarily to individuals and households, but excluding Automotive Use Types. Typical uses include automated banking machines, appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.

#### Convenience Storage

Storage services primarily for personal effects and household goods within enclosed storage areas having individual access but excluding use of such areas as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.

When permitted in the C1, C2, C3, and I Districts, convenience storage facilities shall be subject to the following additional requirements:

1. The minimum size of a convenience storage facility shall be one-half acre.
2. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
3. All driveways within the facility shall provide a paved, gravel, or hard rock surface with a minimum width of 25 feet.
4. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.

#### Food Sales

Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Food sales establishments may include the sale of non-food items. However, the sale of non-food items may account for no more than 33% of the sales are of the Food Sales establishment. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

1. Convenience Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, and by the sales of fuel for motor vehicles.
2. Limited Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, but excluding the accessory sale of fuel for motor vehicles. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, small grocery stores.
3. General Food Sales: Establishments selling a wide variety of food commodities, using facilities larger than 10,000 square feet. Typical uses include supermarkets.

#### Funeral Services

Establishments engaged in undertaking services such as preparing the human dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

#### Gaming Facilities

Establishments engaged in the lawful, on-site operation of games of chance that involve the risk of money for financial gain by patrons. Gaming facilities shall include the accessory sale of liquor and food, pursuant to licensing regulations of the City of Madison or the State of Nebraska.

#### Industrial Facilities

*Production, packaging and manufacture of non-hazardous products.*

*The following performance standards apply to all industrial uses permitted within the Central Business C-2 zoning district:*

1. *Physical Appearance: All operations shall be carried on within an enclosed building. Normal daily inorganic wastes may be stored outside in containers, provided that such containers are not visible from the street.*

2. *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 Madison County or any applicable federal, state, or city statute or regulation.*
3. *Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts: No industrial operation in the C-2 district shall generate sound levels in excess of those specified in Table 6-1 at the boundary of a residential district. All noises shall be muffled so as not to be objectionable because of intermittence, beat frequency, or shrillness.*
4. *Sewage and Wastes: No operation shall discharge into a sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.*
5. *Air Contaminants: 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.*
6. *Odor: The emission of odors determined by the Planning and Zoning Commission to be obnoxious to most people shall be prohibited. Such odors shall be measured at the property line of the operation.*
7. *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 5 parts per million taken at the property line of the operation.*
8. *Vibration: All machines shall be mounted to minimize vibration. No measurable vibration shall occur at the property line of the operation which exceeds a displacement of 0.003 inch.*
9. *Glare and Heat: All glare generated by a use shall be shielded or directed so as not to be visible at the property line of the operation. No heat may be generated from an operation that raises the air temperature at the property line of the operation by more than five degrees Fahrenheit above the ambient air temperature.*
10. *Storage of Chemical Products: No storage of any hazardous chemicals unless specifically addressed in a Conditional Use Permit.*

#### Retail Services

Sale or rental with incidental service of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services:

Household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras, photograph services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation). General Retail Services include:

- a. Limited Retail Services: Establishments providing retail services, occupying facilities of 5,000 square feet or less for any single establishment or 10,000 square feet or less for a multi-tenant facility. Typical establishments provide for specialty retailing or retailing oriented to Madison and a local market.

- b. General Retail Services: Establishments providing retail services, occupying facilities of more than 5,000 square feet for any single establishment or more than 10,000 square feet for a multi-tenant facility. Typical establishments provide for general purpose retailing oriented to Madison and its immediate vicinity.

#### Kennels

Boarding and care services for dogs, cats and similar small mammals or large birds; or any premises on which three or more animals included under this definition over four months of age are kept and maintained. Typical uses include boarding kennels, ostrich raising facilities; pet motels, or dog training centers.

#### Laundry Services

Establishments primarily engaged in the provision of laundering, cleaning or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plans, diaper services, or linen supply services.

#### Liquor Sales

Establishments or places of business engaged in retail sale for off-premise consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

#### Lodging

Lodging services involving the provision of room and/or board, but not meeting the classification criteria of Bed and Breakfasts. Typical uses include hotels, apartment hotels, and motels.

#### Personal Improvement Services

Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services of a nonprofessional nature. Typical uses include driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

#### Personal Services

Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops; seamstress, tailor, or shoe repair shops; photography studios; or dry cleaning stations serving individuals and households, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

#### Pet Services

Retail sales, incidental pet health services, and grooming and boarding, when totally within a building, of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, small animal clinics, dog bathing and clipping salons, and pet grooming shops, but exclude uses for livestock and large animals.

#### Research Services

Establishments primarily engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs.

#### Restricted Businesses

Any business activity which offers the opportunity to view sexual activities or view or touch anatomical areas for entertainment purposes in a manner that offends contemporary standards in the community of Madison, depicts or describes sexual conduct in a patently offensive way, and lacks serious literary, artistic, political, or scientific value. This category includes the sale or viewing of visual or print materials that meet these criteria. Typical uses include retail services or stores which are distinguished by an emphasis on activities or materials that emphasize sexual content; businesses which offer live performances characterized by exposure of specified anatomical areas; and adult theaters.

#### Restaurants

A use engaged in the preparation and retail sale of food and beverages; including the sale of alcoholic beverages when conducted as a secondary feature of the use, producing less than 50 per cent of the establishment's gross income.

1. Restaurant (Drive-in or Fast Food): An establishment which principally supplies food and beverages in disposable containers and is characterized by high automobile accessibility and on-site accommodations, self-service, and short stays by customers.
2. Restaurant (General): An establishment characterized by table service to customers and/or accommodation to walk-in clientele, as opposed to Drive-in or Fast Food Restaurants. Typical uses include cafes, coffee shops, and restaurants.
3. Restaurants in the C2 and C3 Districts that include the accessory sale of alcoholic beverages require approval of a Special Use Permit, as set forth in Section 502.

#### Stables and/or Riding Academies

The buildings, pens and pasture areas used for the boarding and feeding of horses, llamas, or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.

#### Surplus Sales

Businesses engaged in the sale of used or new items, involving regular, periodic outdoor display of merchandise for sale. Typical uses include flea markets and factory outlets or discount businesses with outdoor display.

#### Trade Services

Establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating, and air conditioning) contractors.

#### Vehicle Storage

Short-term storage of operating or nonoperating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage beyond 21 days constitutes an Industrial Use Type.

#### Veterinary Services

Veterinary services and hospitals for animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries, and veterinary hospitals for livestock and large animals.

#### Warehousing (Enclosed)

*Uses including storage, warehousing, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies.*

### **308 Parking Use Types**

#### Off-Street Parking

Parking use types include surface parking of motor vehicles on a temporary basis within a privately or publicly owned off-street parking facility.

1. Parking Structure
  - a. The use of a site for a multilevel building which provides for the parking of motor vehicles on a temporary basis, other than as an accessory to a principal use on the same site.

### **309 Industrial Use Types**

Industrial use types include the on-site extraction or production of goods by nonagricultural methods, and the storage and distribution of products.

#### Industrial Performance Standards

The following performance standards apply to all industrial uses permitted within an L-1 Limited Industrial zoning district:

1. Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored outside. Normal daily inorganic wastes may be stored outside in containers, provided that such containers are not visible from the street.
2. 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 Madison County or any applicable federal, state, or city statute or regulation.
3. Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts: No operation in the L-1 district shall generate sound levels in excess of those specified in Table 6-1 at the boundary of a residential district. All noises shall be muffled so as not to be objectionable because of intermittence, beat frequency, or shrillness.
4. Sewage and Wastes: No operation shall discharge into a sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.
5. Air Contaminants: 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.
6. Odor: The emission of odors determined by the Planning and Zoning Commission to be obnoxious to most people shall be prohibited. Such odors shall be measured at the property line of the operation.
7. 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 5 parts per million taken at the property line of the operation.

8. **Vibration:** All machines shall be mounted to minimize vibration. No measurable vibration shall occur at the property line of the operation which exceeds a displacement of 0.003 inch.
9. **Glare and Heat:** All glare generated by a use shall be shielded or directed so as not to be visible at the property line of the operation. No heat may be generated from an operation that raises the air temperature at the property line of the operation by more than five degrees Fahrenheit above the ambient air temperature.
10. **Storage of Chemical Products:** If allowed by Conditional Use Permit, any above or below ground storage of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed 150,000 gallons when stored on one lot less than one acre. Such storage shall not exceed 25,000 gallons in any one tank. Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of 25,000 gallons shall be located at least 50 feet from any structure intended for human habitation and at least 200 feet from any Residential, Office, or Commercial zoning district.

#### Agricultural Industries

Establishments or uses engaged in the large-scale storage or initial processing of agricultural products and supplies that cannot be otherwise categorized as light, general, or heavy industries, some of which may involve storage of potentially hazardous materials. Typical uses include grain elevators and anhydrous ammonia storage facilities.

#### Construction Yards

Establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.

#### Custom Manufacturing

Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:

1. The use of hand tools, or
2. The use of domestic mechanical equipment not exceeding 2 horsepower, or
3. A single kiln not exceeding 8 KW or equivalent.

This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing, candle making shops.

#### Light Industry

Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or unenclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops and publishing houses.

#### General Industry

Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines.

### Heavy Industry

Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.

### Recycling Collection

Any site which is used in whole or part for the receiving or collection of any post-consumer, nondurable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

### Recycling Processing

Any site which is used for the processing of any post-consumer, nondurable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

### Resource Extraction

A use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding the grading and removal of dirt. Typical uses are quarries, borrow pits, sand and gravel operations, mining.

Resource extraction, where permitted, is subject to the following additional requirements:

1. Erosion Control: A resource extraction use may not increase the amount of storm run-off onto adjacent properties. Erosion control facilities, including retention and sediment basins, are required of each facility, if necessary, to meet this standard.
2. Surface Drainage: The surface of the use may not result in the collection or ponding of water, unless specifically permitted by the City Council.
3. Storage of Topsoil: Topsoil shall be collected and stored for redistribution following the end of the operation.
4. Elimination of Hazards: Excavation shall not result in a hazard to any person or property. The following measures are required:
  - a. Restoration of slopes to a gradient not exceeding 33% as soon as possible.
  - b. Installation of perimeter safety screening.
  - c. Installation of visual screening adjacent to any property within a residential or public use district.
5. Restoration of Landscape: The topography and soil of the resource extraction site shall be restored and stabilized within nine months of completion of the operation. The site shall be seeded, planted, and contoured in a way that prevents erosion. Alternately, the site may be used as a lake or body of water, subject to approval by the City Council with the recommendation of the City Council and the Natural Resources District.

### Salvage Services

Places of business primarily engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junk yards, or paper salvage yards.

1. Screening:

- a. The perimeter of each new facility shall be fully enclosed by opaque, freestanding fencing or screen walls. Minimum height of this enclosure shall be eight feet. Any such enclosure shall be constructed behind required landscaped buffer.
  - b. Each existing salvage services facility shall be screened from public right-of-way as provided above within one year of the effective date of this Ordinance.
2. Storage of materials within any salvage services facility may not be higher than the height of the surrounding screen fence or wall.
  3. No Salvage Services use may be established within 500 feet of the nearest property line of a residential zoning district or of any pre-established civic use

Vehicle Storage (Long-term)

Long-term storage of operating or nonoperating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage of 21 days or less constitutes a Commercial Use Type.

Warehousing (Enclosed)

Uses including storage, warehousing, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies.

Warehousing (Open)

Uses including open air storage, distribution, and handling of goods and materials. Typical uses include monument yards, materials yards, open storage.

**310 Transportation Use Types**

Transportation use types include the use of land for the purpose of providing facilities supporting the movement of passengers and freight from one point to another.

Aviation Facilities

Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

Railroad Facility

Railroad yards, equipment servicing facilities, and terminal facilities.

Transportation Terminal

Facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express, including bus terminals, railroad stations, public transit facilities.

Truck Terminal

A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.

**311 Miscellaneous Type Uses**

Alternative Energy Production Devices

The use of a site for the production of energy utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include solar collector fields, installations which generate energy by harnessing the natural heat of the earth or of geological features, or water-powered mills or generating facilities.

#### Broadcasting Tower

A structure(s) for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district or utilizing antennas or satellite dishes for commercial broadcasting.

#### Amateur Radio Tower

A structure(s) for the transmission or broadcasting of electromagnetic signals by FCC-licensed Amateur Radio operators.

#### Construction Batch Plant

A temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects.

#### Wind Energy Conservation System (WECS)

Any device which converts wind energy to a form of usable energy, including wind charges, windmills, or wind turbines.

#### Landfills

1. Non-putrescible Solid Waste Disposal: The use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials and ceramic tile.
2. Putrescible and Non-putrescible Solid Waste Disposal: The use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the Federal Environmental Protection Agency and/or the State of Nebraska. Typical disposal material would include non-putrescible wastes; and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure.

All landfills are subject to the following supplemental regulations

1. Compliance with Codes: Each landfill must comply with all relevant city, county, State, or Federal codes and statutes.
2. Prevention of Hazards: No facility shall present a hazard to surrounding residents or properties.
3. Drainage and Water Supply: No landfill may modify or prevent the flow of major natural drainage ways within the jurisdiction of the City of Madison. Landfills shall not produce a measurable increase in pollution in any public water-based recreational facility or in any waterway or well that is a part of a public or private water supply.
4. Minimum Separation from Residential Uses: No non-putrescible landfill may be established within 300 feet of a developed residential or public use. No landfill involving the disposal of putrescible or septic wastes shall be established within one-fourth mile of any residential, public, or commercial zoning district; or any State of Federal Highway.

5. **Restoration of Site:** The site of any landfill must be restored, stabilized, planted, and seeded within six months after the end of the operation. Dissipation of waste products must be accomplished in a manner approved by the State of Nebraska's Department of Environmental Control.
6. **Toxic Waste:** The disposal of hazardous, toxic, or radioactive wastes as defined by the Federal Environmental Protection Agency shall be prohibited within the City of Madison and its extra-territorial jurisdiction.

### **312 Supplemental Use Regulations: Infrastructure Improvements**

#### Irrigation Wells

New irrigation wells shall be set back at least 30 feet from the right-of-way of any established road. At any intersection of county, state, or federal roads and highways, such wells must be located at least 70 feet from the nearest intersection of the established rights-of-way.

#### Water Retention, Detention, or Reuse Basins

New water retention, detention, or reuse basins shall be set back at least 30 feet from the right-of-way of any established road. At any intersection of county, state, or federal roads and highways, such wells must be located at least 70 feet from the nearest intersection of the established rights-of-way.

#### Windbreaks

New windbreaks consisting of planted trees and shrubs shall be set back at least 30 feet from the right-of-way of any established road. At any intersection of county, state, or federal roads and highways, such windbreaks must be located at least 70 feet from the nearest intersection of the established rights-of-way.

#### Wastewater Treatment Facilities

No residential structure shall be located within 1,320 feet of a wastewater lagoon or an area where wastewater is applied to land. No residential structure shall be located within 600 feet of a mechanical wastewater treatment plant.

### **313 Home-Based Businesses/ Home Occupations**

Home-based businesses and home occupations are permitted as a conditional use in all districts and are subject to the following conditions:

1. **External Effects:**
  - a. There shall be no change in the exterior appearance of the building or premises housing the home occupation other than signage permitted within this Ordinance.
  - b. No noise, odors, bright lights, electronic interference, storage or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right of way.
  - c. The home occupation shall be carried on entirely within the principal residential structure and/or within a detached accessory building approved by the City in accordance with these zoning regulations. All "External Effects" criteria in items a. 1. (a), (b), (d), (e) and (f) of this subsection are applicable for the detached accessory building.
  - d. Mechanical or electrical equipment supporting the home occupation shall be limited to that which is self-contained within the structure and normally used for office, domestic or household purposes.

- e. No outdoor storage of materials or equipment used in the home occupation shall be permitted, other than motor vehicles used by the owner to conduct the occupation. Parking or storage of heavy commercial vehicles to conduct the home occupation is prohibited.
  - f. No home occupation shall discharge into any sewer, drain, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.
2. Employees: The home occupation shall employ no more than one full time or part time employee on site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by that non-resident employee.
  3. Extent of Use: For all residential and agricultural zoning districts, a maximum percent floor area of 45% of the dwelling may be devoted to the home occupation, inclusive of any detached accessory buildings used for the home occupation.
  4. Signage: Signage designating the home occupation shall be limited to one non-illuminated and non-reflective nameplate no larger than two square feet in area and attached to the building in which the home-based business is conducted. If the principal structure is set back more than 50 feet from the front property line or is not visible from the fronting street, a non-illuminated ground sign not exceeding two square feet in area is permitted.
  5. Traffic Generation: Deliveries or service by commercial vehicles or trucks over ten tons gross empty weight is prohibited for any home-based business located on a local street.
  6. High Impact Home-Based Businesses/Home Occupations
    - a. Beauty and Barber Shops: Barber and beauty shops are permitted as home based businesses in the TA, R-1, R-2, and MH districts subject to approval of a Special Use Permit by the City Council as set forth in Section 1203.
    - b. Welding, vehicle body repair, or rebuilding or dismantling of vehicles are not permitted as home-based businesses.
  7. Each home-based business shall be registered with the Building Inspector, using a form developed by the Building Inspector to demonstrate compliance with the standards contained within this section.

### **314 Accessory Uses**

#### Permitted Accessory Uses: Residential Uses

Residential uses may include the following accessory uses, activities, and structures on the same lot.

1. Private garages and parking for the residential use.
2. Recreational activities and uses by residents.
3. Home occupations, subject to Section 313 of these regulations.
4. Residential convenience services for multi-family uses or mobile home parks.
5. Garage sales, provided that the frequency of such sales at any one location shall not exceed one during a continuous, two-week period or four sales during any twelve month period.
6. In R-1, R-2, AG and RT districts accessory buildings of up to 1,000 square feet are permitted for residential uses. Smaller (tiny homes) or larger building up to 2,500 square feet may be built with a conditional use permit.

7. Nonresidential, noncommercial buildings for private use as the primary structure:

- a. May be built on lots smaller than 6,000 square feet in residential zoning districts with a conditional use permit provided the overall lot coverage does not exceed sixty percent (60%) of buildable area of the lot.
- b. May be built on lots larger than 6,000 square feet in residential zoning districts with a conditional use permit provided the overall lot coverage does not exceed fifty percent (50%) of buildable area of the lot.
- c. Nonresidential, noncommercial buildings on residential lots must be built with new, non-reflective materials.
- d. Only one driveway may be used to serve any nonresidential, noncommercial building.
- e. The lot must be landscaped to match the general aesthetics of the surrounding neighborhood.
- f. Nothing, including vehicles, recreation vehicles, tractors, snow plows, landscaping materials, firewood, and anything else may be stored out-doors on a lot with a nonresidential, noncommercial building.
- g. Outdoor art of any kind not entirely made up of organic materials is not allowed on a lot containing a nonresidential, noncommercial buildings.
- h. Nonresidential, noncommercial buildings built on sub-standard lots are not allowed adjoining a state or federal highway.

Permitted Accessory Uses: Civic Use Types

Guidance Services and Health Care use types are permitted in the Industrial zoning district only as accessory uses to a primary industrial use.

Permitted Accessory Uses: Other Use Types

Other use types may include the following accessory uses, activities, and structures on the same lot:

1. Parking for the principal use.
2. Manufacturing or fabrication of products made for sale in a principal commercial use, provided such manufacturing is totally contained within the structure housing the principal use.
3. Services operated for the sole benefit of employees of the principal use.

Permitted Accessory Uses: Agricultural Use Types

Other uses and activities necessarily and customarily associated with the purpose and functions of agricultural uses.

**Land Use Matrix**

<b>Use Types</b>	<b>AG</b>	<b>RT</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>MH</b>	<b>C1</b>	<b>C2</b>	<b>C3</b>	<b>I</b>
<b>Agricultural Uses</b>										
Horticulture (Greenhouses)	P								C	P
Feed Mills	P								C	P
Crop Production	P	P								
Type I Animal Production	P	C								
Type II Animal production	P	C								
Type III Animal Production	C									
Livestock Sales	P									P
Produce Stands	C								C	
<b>Residential Uses</b>										
Single-Family Detached	C	P	P	P	P	P	C			
Single-Family Attached			C	P	P	P	C			
Duplex				P	P	P	C			
Two-Family				P	P	P	C			
Townhouse				P	P	P	C		C	
Multiple Family Residential					P	P	C		C	
Downtown Residential								P	P	
Group Residential	C	C	C	P	P		C		C	
Manufactured Home Res	C	P	P	P	P		C			
Mobile Home Park						P				
Mobile Home Subdivision						P				
Retirement Residential	C	C	C	P	P		C		C	
<b>Civic Use Types</b>										
Administration		C	C	C	C	C	P	P	P	P
Cemetery	C	C	C	C	C	C				
Clubs	C	C	C	C	C	C	P	P	P	P
College and Universities	C	C	C	C	C		P	P	P	
Convalescent Services		C	C	P	P		P	C	C	
Cultural Services		C	C	C	P		P	P	C	
Day Care Services Limited	C	P	P	P	P	P	P	C	C	C
Day Care Services General				C	P	P	P	P	P	C
Detention Facilities	C	C			C				C	P
Emergency Residential Services	P	P	C	P	P		P		C	
Group Care Facility	C	C					C	C	C	
Group Home	C	C					C	C	C	
Guidance Services			C	C	P		P	P	P	
Health Care	C	P	C	C	P		P	P	P	
Hospital		C	C	C	P		P	C	P	
Maintenance Facilities	C				C	C		C	P	P
Parks and Recreation	P	P	P	P	P	P	P	P	P	P
Postal Facilities		C	C	C	C	C	P	P	P	P
Primary Education Facilities	C	C	C	P	P		P	P	P	
Public Assembly	C	C	C	P	P		P	P	P	
Religious Assembly	C	P	P	P	P	C	P	P	P	
Safety Services	P	P	C	C	C	C	P	P	P	P
Secondary Education Facilities	C	C	C	P	P		P	P	P	
Utilities	P	C	C	C	C	C	P	P	P	P
<b>Office Use Types</b>										
General Offices					C		P	P	P	
Financial Services					C		P	P	P	
Medical Offices				C	C		P	P	P	
<b>Commercial Use Types</b>										
Agricultural Sales & Services	C							C	C	C
Auction Yards and Barns	C						C	C	C	C
Auto Rental/Sales Services								C	C	C
Auto Services								C	C	C
Body Repair								C	C	C
Equipment Rental/Sales	C							C	C	C
Equipment Repair Services	C							C	C	C
Vehicle Storage (short-term)	C							C	P	P
Vehicle Storage (long-term)										P
Bed & Breakfast	C	C	C	P	P		P	C	C	
Business Support Services							P	P	P	

<b>Use Types</b>	<b>AG</b>	<b>RT</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>MH</b>	<b>C1</b>	<b>C2</b>	<b>C3</b>	<b>I</b>
<b>Commercial Use Types Cont'd</b>										
Business or Trade Schools	C	C	C	P	P		P	P	P	C
Campground	C	C			C					
Cocktail Lounge							P	P	P	
Commercial Recreation Indoor							C	P	P	
Commercial Recreation Outdoor	C	C			C				C	
Communications Services	C	C					C	P	P	P
Construction Sales & Services	C						C	P	P	P
Consumer Services							P	P	P	
Convenience Storage							C	P	P	P
Convenience Stores	C	C					P	P	P	
Food Sales (Grocery Stores)							P	P	P	
Funeral Services							P	P	P	
Gaming Facilities		C							C	
Retail Services							P	P	P	
Kennels	P	C								
Laundry Services							C	P	P	C
Liquor Sales	C	C					P	P	P	
Lodging					C		P	P	P	
Personal Improvement Services					C		P	P	P	
Pet Services	P	C			C		P	P	P	
Research Services	C						P	P	P	
Restaurants Fast Food							P	P	P	
Restaurants General							P	P	P	
Restricted Businesses									C	
Stables or Riding Schools	P									
Surplus Sales								P	P	P
Trade Services	C	C					C		P	P
Veterinary Services	P	C					P	P	P	P
<b>Parking Use Types</b>										
Off-Street Parking	C	C					P	P	P	P
<b>Industrial Use Types</b>										
Agricultural Industries	C									P
Construction Yards	C								C	P
Custom Manufacturing	C								C	P
Light Industry									C	P
General Industry										P
Heavy Industry										C
Recycling Collection	C								C	P
Recycling Processing	C								C	P
Resource Extraction	C									C
Salvage Services	C									P
Warehousing (Enclosed)	C								C	P
Warehousing (Open)	C								C	P
<b>Transportation Use Types</b>										
Aviation Facilities (Airports)	C									
Railroad Facilities	C								C	P
Passenger Transportation							C	P	P	C
Truck Terminal	C								C	P
<b>Miscellaneous Types Uses</b>										
Alternative Energy Production	C								C	C
Broadcasting Tower	C	C					C	C	C	P
Wireless Communication Tower	C	C							C	P
Amateur Radio Tower	P	P	C	C	P	C	P	P	P	P
Construction Batch Plant	C	C								C
Wind Energy Conservation	C	C								C
Landfill (non-putrescible)	C									
Landfill (putrescible)	C									C
Home Occupations	C	C	C	C	C	C	C	C	C	C

# 4

## ARTICLE FOUR

### ZONING DISTRICT REGULATIONS

#### 401 Purpose

Article Four presents the Zoning District Regulations. Zoning Districts are established in the Zoning Ordinance to promote compatible land use patterns and to establish site development regulations appropriate to the purposes and specific nature of each district.

#### 402 Establishment of Districts

The following base districts and overlay districts are hereby established. Table 4-1 displays the purposes of these districts.

<u>ZONING DISTRICTS</u>	<u>DISTRICT NAMES</u>
AG	Agriculture District
RT	Residential Transition District
R1	Single Family District
R2	Medium Density District
R3	Multiple Family District
MH	Mobile Home District
C1	Light Commercial District
C2	Central Business District
C3	Highway Services District
I1	Industrial <i>Park</i> District
I2	<i>Urban Industrial District</i>

#### 403 Application of Districts

A base district designation shall apply to each lot or site within the city and its planning jurisdiction. A site must be in one base district.

#### 404 Hierarchy

References in the Zoning Ordinance to less intensive or more intensive districts shall be deemed to refer to those agricultural, residential, commercial, and industrial base zoning districts established in Section 402, and shall represent a progression from the AG Agricultural District as the least intensive to the I Industrial District as the most intensive.

#### 405 Development Regulations

For each Zoning District: Purposes are set forth in Table 4-1; Uses permitted are set forth in Table 4-2; and Site Development Regulations are presented in Table 4-3.

Supplemental Regulations may affect specific land uses or development regulations in each zoning district.

#### **406 Zoning Map**

##### **1. Adoption of Zoning Map**

Boundaries of zoning districts established by this Zoning Ordinance shall be shown on the Zoning Map maintained by the City Clerk. This map, together with all legends, references, symbols, boundaries, and other information, shall be adopted as a part of, and concurrent with this Ordinance. Said Zoning Map shall be prominently displayed in the council chambers and/or an area accessible to the public at Madison City Hall.

##### **2. Changes to the Zoning Map**

The Zoning Map may be changed from time to time by ordinance, following the procedure set forth by Article Twelve. Such changes shall be reflected on the Zoning Map. The City Clerk shall keep a complete record of all changes to the Zoning Map.

#### **407 Interpretation of District Boundaries**

The following rules shall apply in determining the boundaries of any zoning district shown on the Zoning Map.

1. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be considered the district boundaries.
2. Where district boundaries are indicated as within street or alley, railroad, or other identifiable rights-of-way, the centerline of such rights-of-way shall be deemed the district boundary.
3. Where a district boundary divides a property, the location of the boundary shall be determined by the use of the scale appearing on the Zoning Map.
4. The City Council shall determine any other uncertainty regarding district boundaries not covered in this section.

#### **408 Vacation of Streets and Alleys**

Whenever a public street or alley is vacated, the zoning district adjoining each side of such right-of-way shall be extended out to the former centerline.

## Purposes of Zoning Districts

<b>Symbol</b>	<b>Title</b>	<b>Purpose</b>
<b>AG</b>	Agricultural District	The AG District provides for and preserves the agricultural and rural use of land, while accommodating very low density residential development generally associated with agricultural uses. This district is designed to maintain complete agricultural uses within the Madison extra-territorial jurisdiction.
<b>RT</b>	Residential Transition District	This district provides for the large lot residential use of land, accommodating very low density residential environments. This category limits agriculture activities to those that have limited external effects, such as crop production. In RT districts, residential uses are the primary activity permitted.
<b>R1</b>	Single Family District	This zone provides for conventional single-family residential development and compatible civic uses, including religious assembly, child care, and parks and recreation. A modular or manufactured home set permanently on a foundation is considered a conventional single-family house. Uncovered or unscreened outdoor storage of material or automobiles is not allowed in this or other residential zones.
<b>R2</b>	Medium Density District	This district provides for medium density residential environments, incorporating a variety of housing types, including moderate density single-family, duplex, and townhouse development. It encourages innovative forms of housing development. The R-2 district may also accommodate the limited development of neighborhood based services.
<b>R3</b>	Multiple Family District	This district applies to areas that allow higher density housing in addition to single-family residential. Apartments, condominium, multi-family townhouses and other types of large multi-family developments would be allowed in addition to the residential uses of the other residential districts. The district integrates some appropriate non-residential uses such as offices to permit the development of mixed use neighborhoods.
<b>MH</b>	Mobile Home District	This district will apply to areas that permit mobile homes in addition to conventional single-family dwellings. Mobile Home Parks and Mobile Home Subdivisions would be allowed in this district.
<b>C1</b>	Light Commercial District	This district reserves appropriately located areas for office and low-impact commercial uses, designed to be compatible with neighboring residential areas. Development regulations are designed to ensure compatibility in size, scale, and landscaping with nearby residences.
<b>C2</b>	Central Business District	This district will apply to the downtown and will permit buildings to be built to the property line of lots. Allowed uses will include commercial, civic, residential, and light industrial uses. The grouping of uses is designed to strengthen the town center's role as a center for trade, service, and civic life.
<b>C3</b>	Highway Services District	This district accommodates a variety of commercial uses, including those which are oriented to automobile services. This district may include commercial uses that are oriented to services, including automotive services, rather than retail activities. These uses may create land use conflicts with adjacent residential areas, requiring provision of adequate buffering. Warehousing, storage, and personal storage units would be appropriate in this district. This district is most appropriately located along major arterial streets or in areas that can be adequately buffered from residential districts.
<b>I</b>	Industrial District	This zone will designate areas for industrial or storage uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development, while assuring facilities are served with adequate parking and loading facilities. Screening of industrial zones along any common boundaries with residential uses will be required.



## 409 AG – Agricultural District

Intent: The (AG) Agricultural District is established for the purpose of preserving agricultural pursuits and resources that are compatible with the urban type uses of a city. It does allow limited ownership of livestock, but is not intended for commercial livestock operations.

### Permitted Uses:

1. Farming, pasturing, truck gardening, and orchards, including the sale of products raised on the premises, provided that no livestock feedlot or yard shall be established.
2. Type I and Type II livestock facilities in conjunction with raising crops, pasturing or natural feeding.
3. Residential dwellings, including manufactured homes, on forty or more acres for use by the owners and their families, tenants, and employees.
4. Railroads, not including switching, terminal facilities or freight yards.
5. Public overhead and underground local distribution utilities.
6. Utility structures and buildings.
7. Roadside stands offering the sale of agriculture products produced on the premises.
8. Livestock sales.
9. Emergency Residential Services, Safety Services, and Utilities.
10. Public parks and campgrounds.
11. Stables or Riding Schools, and Veterinary Services, providing no structure or building used to house horses or other animals is located closer than one-hundred feet (100') too any residential use or drinking water well.
12. Amateur Radio Towers.

### Permitted Conditional Uses:

1. Residential dwellings, including manufactured homes, on less than forty acres in accordance with density requirements.
2. Roadside stands offering the sale of agriculture products produced elsewhere.
3. Private parks, including country clubs, golf courses (not miniature), swimming pools, and campgrounds.
4. Type III livestock facilities in conjunction with raising crops, pasturing or natural feeding.
5. Group and Retirement residential uses.
6. Educational institutions, including public and private primary education facilities, public and private secondary education facilities, public and private college and universities, and vocational, business or trade schools
7. Cemeteries, private clubs, limited day care services, detention facilities, group care facilities, group homes, health care facilities (not including hospitals), maintenance facilities, public assembly facilities, and religious assembly facilities.
8. Water supply and storage facilities, wastewater treatment, sewage disposal, and solid waste disposal facilities.
9. Agricultural sales and/or services, equipment rental and/or sales, equipment repair services, short-term vehicle storage, and bed and breakfast establishments.
10. Off-street parking.
11. Agricultural industries, construction yards, custom manufacturing, recycling collection, recycling processing, extraction and mining of natural resources, enclosed and open warehousing.
12. Airports, heliports, railroad facilities, truck terminals.
13. Alternative energy production, broadcasting towers, wireless communication towers, construction batch plants, and wind energy conservation facilities.
14. Home Occupations.
15. Convenience Stores.
16. Commercial auction yards and barns.
17. Feed mills.
18. Auto wrecking yards, junk yards, salvage services, and scrap processing yards licensed by the State of Nebraska.
19. Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals.
20. Spreading of manure or liquid animal waste from another county or jurisdiction.

Permitted Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Temporary buildings, including a mobile home when a permanent dwelling is under construction, incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs legal under this ordinance.
4. Parking legal under this ordinance.
5. Private swimming pool, tennis courts and other similar facilities in conjunction with a residence.
6. Storage or parking of legally licensed and operating vehicles, boats, campers, trailers, and agricultural machinery on a working farm.
7. Kennels (Private)
8. Kennels (Commercial) and Pet Services providing no structure or building used to house dogs or cats is located closer than one-hundred feet (100') to any residential use or drinking water well, and no less than one-quarter mile (1,320) to any neighboring residence.

Lot, Setbacks, and Height Requirements: The lot, setback and height requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side yard	Rear Yard	Max. Height
Residential Dwelling (private well and septic) <sup>1</sup>	40 acres	300 ft.	*	**	***	35 feet
Other Permitted Uses	5 acres	300 ft.	*	**	***	35 feet
Permitted Conditional Uses	20 acres	660 ft.	*	**	***	35 feet
Accessory Buildings	-	-	*	**	***	35 feet

<sup>1</sup> Minimum lot size can be as small as five (5) acres with a conditional use permit. No more than two non-farmstead dwellings allowed per forty-acres regardless of lot size.

\* Front yard setback shall be fifty feet (50') when abutting a State Highway or County Road, or shall be thirty-five feet (35') when abutting any other street or road, including private roads.

\*\* Side yard setback shall be fifty feet (50') when abutting a State Highway or County Road, or shall be thirty-five feet (35') when abutting any other street or road, including private roads, and shall be seven feet (7') from interior property lines.

\*\*\* Rear yard setback shall be fifty feet (50') when abutting a State Highway or County Road, or shall be thirty-five feet (35') when abutting any other street or road, including private roads, and shall be twenty-five feet (25') from interior property lines.

Other Applicable Provisions:

1. The following uses shall be located a minimum of one-thousand-three-hundred-twenty feet (1,320') from any adjacent residential, commercial, industrial, or public use, as measured from the nearest point on the lot line.
  - a. Commercial auction barns or yards and livestock sales.
  - b. Commercial production and husbandry of poultry, fish, and small animals.
  - c. Commercial feedlots or confined feeding operations.
  - d. Mining and extraction of natural resources.
  - e. Feed mills.
  - f. Veterinarians' offices and hospitals, and boarding kennels, applicable only to any structure or building used to house horses or other animals.
  - g. Raising and care of animals for 4-H, Future Farmers of America (FFA) or other rural/school organizations.
  - h. Kennels, stables, and riding clubs, applicable only to any structure of building used to house horses or other animals.
  - i. Auto wrecking yards, junk yards, salvage yards, and scrap processing yards.
  - j. Storage and distribution of anhydrous ammonia, fuel fertilizer, and other chemicals.
2. No new residential, commercial, industrial, or public use shall be located nearer than one-thousand-three-hundred-twenty feet (1,320') to any existing use listed in Number One (1.) above.
3. Any feedlot or confined feeding operation operating under a Conditional Use Permit at the time of adoption of this ordinance in the AG – Agricultural District shall be “Grandfathered” and allowed to continue to operate and may renew the existing Conditional or Special Use Permit. However, the feedlot or confined feeding operation may not expand to a larger class size as defined by the Nebraska Department of Environmental Quality.

## 410 RT – Residential Transition District

Intent: The (RT) Residential Transition District is intended to permit a transitional district between medium-impact agricultural land uses and the urban land uses associated with a city or village.

### Permitted Uses:

1. Farming, pasturing, truck gardening, and orchards, including the sale of products raised on the premises, provided that no livestock feedlot or yard shall be established.
2. Single family dwellings including manufactured homes.
3. Health care facilities.
4. Limited day care services.
5. Religious assembly facilities.
6. Emergency residential services.
7. Publicly owned and operated parks and recreation facilities other than campgrounds.
8. Safety services.
9. Amateur Radio Towers.

### Permitted Conditional Uses:

1. Type II and type III livestock facilities in conjunction with raising crops, pasturing or natural feeding.
2. Group and Retirement residential uses.
3. Privately owned and operated parks and recreation facilities including public or privately operated campgrounds.
4. Educational institutions, including public and private primary education facilities, public and private secondary education facilities, public and private college and universities, and vocational, business or trade schools.
5. Cemeteries, private clubs, limited day care services, detention facilities, group care facilities, group homes, convalescent services, hospitals, guidance services, cultural services, postal facilities, and public assembly facilities.
6. Public utilities including substations, distribution centers, regulator stations, pumping stations, equipment buildings, garages, towers, water supply and storage facilities, including but not limited to, wastewater treatment, sewage disposal, and other similar service uses.
7. Kennels, Pet Services, and Veterinary Services, providing no structure or building used to house domestic animals is located closer than one-hundred feet (100') too any residential use or drinking water well.
8. Broadcasting towers, wireless communication towers, construction batch plants, and wind energy conservation facilities.
9. Off-street parking.
10. Gaming Facilities.
11. Convenience Stores.
12. Bed and breakfast establishments.
13. Home Occupations.
14. Spreading of manure or liquid animal waste from another county or jurisdiction.

### Permitted Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Temporary buildings, incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs legal under this ordinance.
4. Parking legal under this ordinance.
5. Private swimming pool, tennis courts and other similar facilities in conjunction with a residence.
6. Landscaping pursuant to this ordinance.

Lot, Setbacks, and Height Requirements: The lot, setback and height requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side yard	Rear Yard	Max. Height
Residential Dwelling (private well and septic)	2½ acres*	100 feet	25 feet	**	10 feet	35 feet
Other Permitted Uses	2½ acres*	100 feet	25 feet	**	10 feet	35 feet
Permitted Conditional Uses	2½ acres*	100 feet	25 feet	**	10 feet	35 feet
Accessory Buildings	-	-	25 feet	**	6 feet	20 feet

\*\*Side yard setback shall be twenty-five feet (25') when abutting a State Highway or County Road, or shall be fifteen feet (15') when abutting any other street or road, including private roads, and shall be six feet (6') from interior property lines.

Other Applicable Provisions:

1. Any feedlot or confined feeding operation operating under a Conditional Use Permit at the time of adoption of this ordinance in the AG – Agricultural District shall be “Grandfathered” and allowed to continue to operate and may renew the existing Conditional or Special Use Permit. However, the feedlot or confined feeding operation may not expand to a larger class size as defined by the Nebraska Department of Environmental Quality.

**411 R1 – Single Family District**

Intent: The (R1) Single Family District is intended to permit an increased density of residential development in a single family environment.

Permitted Uses:

1. Single family detached dwellings including manufactured homes.
2. Public and private schools.
3. Limited day care services.
4. Religious assembly facilities.
5. Emergency residential services.
6. Publicly owned and operated parks and recreation facilities other than campgrounds.
7. Safety services.

Permitted Conditional Uses:

1. Single family attached dwellings.
2. Group and Retirement residential uses.
3. Public utilities including substations, distribution centers, regulator stations, pumping stations, equipment buildings, garages, towers, water supply and storage facilities, including but not limited to, wastewater treatment, sewage disposal, and other similar service uses.
4. Cemeteries, private clubs, limited day care services, guidance services, health care facilities, convalescent services, hospitals, cultural services, postal facilities, and public assembly facilities.
5. Educational institutions, including public and private primary education facilities, public and private secondary education facilities, public and private college and universities, and vocational, business or trade schools.
6. Amateur Radio Towers.
7. Home Occupations.
8. Bed and breakfast establishments.
9. Accessory buildings as defined in 314 Accessory Uses; Permitted Accessory Uses: Residential Uses.

Permitted Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Temporary buildings, incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs legal under this ordinance.
4. Parking legal under this ordinance.
5. Private swimming pool, tennis courts and other similar facilities in conjunction with a residence.
6. Landscaping pursuant to this ordinance.

Lot, Setbacks, and Height Requirements: The lot, setback and height requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side yard	Rear Yard	Max. Height
Single Family dwelling, detached	6,000 sq. ft.	50 feet	25 feet	*	10 feet	35 feet
Single Family attached	5,000 sq. ft. per unit	50' per unit	25 feet	**	10 feet	35 feet
Other Permitted and Conditional Uses	8,000 sq. ft.	100 feet	25 feet	*	10 feet	35 feet
Accessory Buildings	-	-	25 feet	*	6 feet***	20 feet

\*Side yard setback shall be twenty-five feet (25') when abutting a State Highway or County Road, or shall be fifteen feet (15') when abutting any other street or road, including private roads, and shall be six feet (6') from interior property lines.

\*\* Party walls shall have a zero lot line setback and shall be on the property line separating both dwellings. The opposite side yard setback shall be twenty-five feet (25') when abutting a State Highway or County Road, or shall be fifteen feet (15') when abutting any other street or road, including private roads, and shall be twelve feet (12') from interior property lines.

\*\*\* If an alley is located at the rear of the lot, the accessory rear yard setback may be reduced to three feet (3').

**412 R2 – Medium Density District**

Intent: The (R2) Medium Density District is intended to permit an increased density of residential development to include two-family units, as well as other compatible uses.

Permitted Uses:

1. Single family detached dwellings including manufactured homes.
2. Single family attached dwellings.
3. Two-family dwellings.
4. Bed and breakfast establishments.
5. Group and Retirement residential uses.
6. Public and private schools.
7. Limited day care services.
8. Religious assembly facilities.
9. Emergency residential services.
10. Publicly owned and operated parks and recreation facilities other than campgrounds.
11. Safety services.

Permitted Conditional Uses:

1. Public utilities including substations, distribution centers, regulator stations, pumping stations, equipment buildings, garages, towers, water supply and storage facilities, including but not limited to, wastewater treatment, sewage disposal, and other similar service uses.
2. Cemeteries, private clubs, limited day care services, health care facilities, medial offices, convalescent services, hospitals, cultural services, postal facilities, and public assembly facilities.
3. General day care services.
4. Amateur radio towers.
5. Home occupations.
6. Accessory buildings as defined in 314 Accessory Uses; Permitted Accessory Uses: Residential Uses.

Permitted Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Temporary buildings, incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs legal under this ordinance.
4. Parking legal under this ordinance.
5. Private swimming pool, tennis courts and other similar facilities in conjunction with a residence.
6. Landscaping pursuant to this ordinance.

Lot, Setbacks, and Height Requirements: The lot, setback and height requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side yard	Rear Yard	Max. Height
Single Family dwelling, detached	6,000 sq. ft.	50 feet	25 feet	*	10 feet	35 feet
Single Family attached	5,000 sq. ft. per unit	50' per unit	25 feet	**	10 feet	35 feet
Condominiums and Townhouses	3,000 sq. ft. per unit	25' per unit	25 feet	**	10 feet	35 feet
Other Permitted and Conditional Uses	8,000 sq. ft.	100 feet	25 feet	*	10 feet	35 feet
Accessory Buildings	-	-	25 feet	*	6 feet***	20 feet

\*Side yard setback shall be twenty-five feet (25') when abutting a State Highway or County Road, or shall be fifteen feet (15') when abutting any other street or road, including private roads, and shall be six feet (6') from interior property lines.

\*\* Party walls shall have a zero lot line setback and shall be on the property line separating both dwellings. The opposite side yard setback shall be twenty-five feet (25') when abutting a State Highway or County Road, or shall be thirty-five feet (15') when abutting any other street or road, including private roads, and shall be seven feet (6') from interior property lines.

\*\*\* If an alley is located at the rear of the lot, the accessory rear yard setback may be reduced to three feet (3').

**413 R3 – Multiple Family District**

Intent: The (R3) Multiple Family District is intended to permit dense residential development to include two-family units and multi-family units, as well as other compatible uses.

Permitted Uses:

1. Single family detached dwellings including manufactured homes.
2. Single family attached dwellings.
3. Two-family dwellings.
4. Bed and breakfast establishments.
5. Group and Retirement residential uses.
6. Convalescent services and hospitals.
7. Public and private schools.
8. Limited day care services and general day care services.
9. Religious assembly facilities.
10. Emergency residential services.
11. Publicly owned and operated parks and recreation facilities other than campgrounds.
12. Safety services.
13. Amateur radio towers.

Permitted Conditional Uses:

1. Multiple Family Residential dwellings.
  - a. The common wall between attached units shall be on the side lot line separating the two lots and shall not be subject to side yard requirements providing there are no doors, windows, vents or other openings in the common wall.
  - b. Not more than ten (10) units shall be attached in this district.
  - c. No unit shall have a depth greater than four (4) times its width.
  - d. Any exterior wall, which is not a common wall, must meet all yard requirements.
  - e. Each lot must have direct access to a public street.
  - f. The deed to each lot must include covenants requiring the proper and timely reconstruction of any damaged or destroyed dwellings.
  - g. The application for such conditional use must include a plat plan with the general location of buildings, parking areas, driveways, fences and other structures, the location of easements and utility lines, the number and type of all dwelling units, and the property lines within the proposed development.
2. Lodging.
3. Public utilities including substations, distribution centers, regulator stations, pumping stations, equipment buildings, garages, towers, water supply and storage facilities, including but not limited to, wastewater treatment, sewage disposal, and other similar service uses.
4. Cemeteries, private clubs, limited day care services, health care facilities, medial offices, convalescent services, hospitals, general offices, financial services, cultural services, postal facilities, maintenance facilities, and public assembly facilities.
5. Public and private campgrounds and commercial outdoor recreation facilities.
6. Personal improvement services.
7. Pet services.
8. Detention facilities.
9. Home occupations.

Permitted Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Temporary buildings, incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs legal under this ordinance.
4. Parking legal under this ordinance.
5. Private swimming pool, tennis courts and other similar facilities in conjunction with a residence.
6. Landscaping pursuant to this ordinance.
7. Accessory buildings as defined in 314 Accessory Uses; Permitted Accessory Uses: Residential Uses

Lot, Setbacks, and Height Requirements: The lot, setback and height requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side yard	Rear Yard	Max. Height
Single Family dwelling, detached	6,000 sq. ft.	50 feet	25 feet	*	10 feet	35 feet
Single Family attached	4,000 sq. ft. per unit	50' per unit	25 feet	**	10 feet	35 feet
Condominiums and Townhouses	2,500 sq. ft. per unit	25' per unit	25 feet	**	10 feet	35 feet
Multi-Family Dwelling	Per unit					
1-Story	4,000 sq. ft.	100'	30 feet	**	25 feet	45 feet
2-Story	2,500 sq. ft.	100'	30 feet	**	25 feet	45 feet
3-Story	1,750 sq. ft.	100'	30 feet	**	25 feet	45 feet
Other Permitted and Conditional Uses	8,000 sq. ft.	75 feet	25 feet	*	10 feet	45 feet
Accessory Buildings	-	-	25 feet	*	6 feet***	17 feet

\*Side yard setback shall be twenty-five feet (25') when abutting a State Highway or County Road, or shall be fifteen feet (15') when abutting any other street or road, including private roads, and shall be six feet (6') from interior property lines.

\*\* Party walls shall have a zero lot line setback and shall be on the property line separating both dwellings. The opposite side yard setback shall be twenty-five feet (25') when abutting a State Highway or County Road, or shall be thirty-five feet (15') when abutting any other street or road, including private roads, and shall be seven feet (6') from interior property lines.

\*\*\* If an alley is located at the rear of the lot, the accessory rear yard setback may be reduced to three feet (3').

**414 MH – Mobile Home District**

Intent: The (R3) Multiple Family District is intended to permit mobile home development on leased or owned property in areas where a mobile home park or subdivision is appropriate, and where such development is recognized as being in the best interests of the City. The MH District is a floating zone district. Although the specific conditions within this district are predetermined, the location of a proposed district must be carefully reviewed to assure that the strict conditions are met.

Permitted Uses:

1. Single family detached dwellings including manufactured homes.
2. Single family attached dwellings.
3. Two-family dwellings.
4. Multiple Family Residential dwellings
5. Mobile home dwellings.
6. Limited day care services and general day care services.

Permitted Conditional Uses:

1. Government administration.
2. Public utilities including substations, distribution centers, regulator stations, pumping stations, equipment buildings, garages, towers, water supply and storage facilities, including but not limited to, wastewater treatment, sewage disposal, and other similar service uses.
3. Cemeteries, private clubs, postal facilities, maintenance facilities, religious assembly facilities, and safety facilities.
4. Home occupations.
5. Amateur radio towers.

Permitted Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Signs legal under this ordinance.
3. Parking legal under this ordinance.
4. Landscaping pursuant to this ordinance.

Lot, Setbacks, and Height Requirements:

1. A mobile home development shall have a lot area of not less than three (3) acres. No mobile homes or other structures shall be located less than sixty feet (60') from the road centerline when contiguous to or having frontage to a County Road or State Highway. The setback on all other property lines shall be fifteen feet (15') and these areas shall be landscaped. The minimum lot depth in a mobile home development shall be two-hundred feet (220').
2. Each lot provided for occupancy of a single mobile home dwelling shall have an area of not less than four thousand square feet (4,000 sq. ft.), excluding road right-of-way, and a width of not less than forty feet (40'). Each individual lot shall have:
  - a. Side yard setback shall not be less than five feet (5'), except that on corner lots, the setback for all buildings shall be a minimum of twenty-five feet (25') on the side abutting a street/road.
  - b. Front yard setback shall not be less than twenty five feet (25').
  - c. Rear yard of not less than fifteen feet (15').
3. There shall be a minimum livable floor area of five-hundred square feet (500 sq. ft.) in each mobile home.
4. Height of the buildings shall be:
  - a. Maximum height for principal uses shall be thirty-five feet (35').
  - b. Maximum height for accessory uses shall be ten feet (10').
5. Each lot shall have access to a hard surfaced drive not less than twenty-four feet (24') in width, excluding parking.
6. A sidewalk or walkway no less than four feet (4') in width must be installed along any interior streets within the development. This walkway may be paved, graveled, or covered in wood chips, and must be separated from the roadway by a minimum distance of ten (10') feet. This area may be used to calculate the required front yard setback.

7. Community water and sewer disposal facilities shall be provided at the cost of the developer with connections to each lot, in accordance with design standards for the City. The water supply shall be sufficient for domestic use and for fire protection.
8. Service buildings, including adequate laundry and drying facilities and common toilet facilities for mobile homes which do not have these facilities within each unit may be provided. **Storm shelters will also be provided in case of an emergency.**
9. Not less than ten percent (10%) of the total development area shall be designed and used for park, playground and recreational purposes.
10. Each mobile home dwelling shall be provided with a paved patio or equivalent, other than parking spaces, of not less than one-hundred-fifty square feet (150 sq. ft.).
11. If located on a State Highway or County Road, the mobile home development shall have not more than two (2) direct accesses to said road.

Plan Requirements:

1. A complete plan of any new or expansion of an existing mobile home development shall be submitted showing:
  - a. A development plan and grading plan of the development.
  - b. The area and dimensions of the tract of land.
  - c. The number, location, and size of all mobile home spaces.
  - d. The area and dimensions of the park, playground and recreation areas.
  - e. The location and width of roadways and walkways.
  - f. The location of service buildings and any other proposed structures including swimming pools.
  - g. The location of water and sewer disposal facilities.
  - h. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home development.
2. All lots must be platted in accordance with the Subdivision Regulations of the City of Madison.
3. Financial Responsibility: Each application for a mobile home development shall include a demonstration by the developer of financial capability to complete the project; and a construction schedule.
4. Completion Schedule: Construction must begin on any approved mobile home development within one year of the date of approval by the Council. Such construction shall be completed within two years of approval, unless otherwise extended by the Council.
5. All other uses and provisions of the Madison mobile home development regulations are incorporated herein by reference. These provisions include tie-down and other structural requirements included in the Madison Municipal Codes.

## **415 C1 – Light Commercial District**

Intent: The (C1) Light Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community.

### Permitted Uses:

1. Civic Uses including: administration, clubs, college and universities, convalescent services, cultural services, limited day care services, general day care services, emergency residential services, guidance services, health care facilities, hospitals, parks and recreation, postal facilities, primary education facilities, public assembly facilities, religious assembly facilities, safety services, secondary education facilities, and utilities.
2. Office Use Types including: general offices, financial services, and medical offices.
3. Commercial Use Types, other than those uses defined in Adult Establishments, including:
  - a. Lodging and bed and breakfast establishments
  - b. Business support services.
  - c. Business or trade schools.
  - d. Cocktail lounges and bars.
  - e. Consumer services.
  - f. Convenience stores with limited fuel sales.
  - g. Food sales (grocery stores).
  - h. Funeral services.
  - i. Retail services.
  - j. Liquor sales.
  - k. Personal improvement services.
  - l. Pet services.
  - m. Research services.
  - n. Restaurants general and fast food.
  - o. Veterinary services.
4. Off-street parking.
5. Amateur radio towers.

### Permitted Conditional Uses:

1. Single-family detached including manufactured homes.
2. Single-family attached dwellings.
3. Duplex, two-family, and townhouse dwellings.
4. Multiple-family residential.
5. Group residential and retirement residential.
6. Group care facilities and group homes.
7. Non-livestock auction yards and barns.
8. Indoor commercial recreation.
9. Communications services.
10. Construction sales and services.
11. Printing and publishing.
12. Amusement arcades.
13. Convenience storage.
14. Laundry services.
15. Trade services.
16. Passenger transportation facilities other than airports.
17. Broadcasting towers.
18. Home occupations.

### Permitted Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Temporary buildings, incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs legal under this ordinance.

4. Parking legal under this ordinance.
5. Landscaping pursuant to this ordinance.

Lot, Setbacks, and Height Requirements: The lot, setback and height requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side yard	Rear Yard	Max. Height
Permitted Uses	3,000 sq. ft.	25 feet	25 feet	*	15 feet	45 feet
Permitted Conditional Uses	3,000 sq. ft.	25 feet	25 feet	*	15 feet	45 feet
Accessory Buildings	-	-	25 feet	*	6 feet	20 feet

\*Side yard setback shall be twenty-five feet (25') when abutting a State Highway or County Road, or shall be fifteen feet (15') when abutting any other street or road, including private roads, and shall be fifteen feet (15') from interior property lines.

Use Limitations:

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within fifteen feet (15') of such residential district.
2. When adjacent to any residential district, any construction shall provide a six foot (6') high permanent screen in order to minimize impacts on residentially zoned property pursuant to this ordinance.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
5. When adjacent to a public alley or platted public right-of-way, the width of the alley or right-of-way shall be included in computing the minimum rear yard setback.

**416 C2 – Central Business District**

Intent: The (C2) Central Business District is intended to establish standards that will foster commercial development in the existing downtown area of Madison that will benefit the retail trade, business, cultural, and social activities of the entire community.

Permitted Uses:

1. Downtown Residential
2. Civic Uses including: government administration, clubs, college and universities, cultural services, general day care services, guidance services, health care (excluding hospitals), parks and recreation, postal facilities, primary education facilities, public assembly facilities, religious assembly facilities, safety services, secondary education facilities, and utilities.
3. Office Use Types including: general offices, financial services, and medical offices.
4. Commercial Use Types, other than those uses defined in Adult Establishments, including:
  - a. Business support services.
  - b. Business or trade schools.
  - c. Cocktail lounges and bars, not including uses defined in Adult Establishments.
  - d. Indoor commercial recreation.
  - e. Communications services.
  - f. Construction sales and services.
  - g. Consumer services.
  - h. Convenience storage.
  - i. Convenience stores.
  - j. Food sales (grocery stores).
  - k. Funeral services.
  - l. Retail services.
  - m. Laundry services.
  - n. Liquor sales.
  - o. Lodging.
  - p. Personal improvement services.
  - q. Pet services.
  - r. Research services.
  - s. Restaurants.
  - t. Surplus sales.
  - u. Veterinary services for small animals only with no outdoors boarding or kennel facilities.
5. Off-Street parking.
6. Passenger transportation excluding airports.
7. Amateur radio towers.
8. *Warehousing of non-hazardous materials.*

Permitted Conditional Uses:

1. Convalescent Services.
2. Limited day care services.
3. Group care facilities and group homes.
4. Hospitals.
5. Maintenance facilities.
6. Agricultural sales and services.
7. Auction yards and barns.
8. Auto rental/sales services.
9. Auto services including convenience stores with limited fuel sales and gas stations.
10. Equipment rental/sales.
11. Equipment repair services.
12. Body repair.
13. Dry Cleaners and establishments with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.
14. Broadcasting towers.
15. Vehicle storage (short-term).

16. Bed and breakfast establishments.
17. Home occupations.
18. Manufacturing of non-hazardous products.

Permitted Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Temporary buildings, incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs legal under this ordinance.
4. Parking legal under this ordinance.
5. Landscaping pursuant to this ordinance.

Lot, Setbacks, and Height Requirements: The lot, setback and height requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side yard	Rear Yard	Max. Height
Permitted Uses	3,000 sq. ft.	25 feet	25 feet	*	**	45 feet
Permitted Conditional Uses	3,000 sq. ft.	25 feet	25 feet	*	**	45 feet
Accessory Buildings	-	-	25 feet	*	**	20 feet

\* None, except Side Yard setback shall be twenty-five feet (25') when abutting a State Highway or County Road, or shall be fifteen feet (15') when abutting any other street or road, including private roads, and shall be fifteen feet (15') when adjacent to any residential district.

\*\* None, except that when adjacent to any residential district, the Rear Yard setback shall be twenty-five feet (25').

Use Limitations:

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within fifteen feet (15') of such residential district.
2. When adjacent to any residential district, any construction shall provide a six foot (6') high permanent screen in order to minimize impacts on residentially zoned property pursuant to this ordinance.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
5. When adjacent to a public alley or undeveloped platted public right-of-way, the width of the alley or right-of-way shall be included in computing the minimum rear yard setback.

## 416 C3 – Highway Services District

Intent: The (C3) Highway Services District is intended to establish standards that will foster and maintain a specific area of commercial development that will benefit the entire community and enhance the highway corridor approaching Madison.

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

### Permitted Uses:

1. Downtown Residential
2. Civic Uses including: government administration, clubs, college and universities, general day care services, guidance services, health care, hospitals, maintenance facilities, parks and recreation, postal facilities, primary education facilities, public assembly facilities, religious assembly facilities, safety services, secondary education facilities, and utilities.
3. Office Use Types including: general offices, financial services, and medical offices.
4. Commercial Use Types, other than those uses defined in Adult Establishments, including:
  - a. Business support services.
  - b. Business or trade schools.
  - c. Cocktail lounges and bars, not including uses defined in Adult Establishments.
  - d. Indoor commercial recreation.
  - e. Communications services.
  - f. Construction sales and services.
  - g. Consumer services.
  - h. Convenience storage.
  - i. Convenience stores.
  - j. Food sales (grocery stores).
  - k. Funeral services.
  - l. Retail services.
  - m. Laundry services.
  - n. Liquor sales.
  - o. Lodging.
  - p. Personal improvement services.
  - q. Pet services.
  - r. Research services.
  - s. Restaurants.
  - t. Surplus sales.
  - u. Trade services.
  - v. Veterinary services for small animals only with no outdoors boarding or kennel facilities.
5. Off-Street parking.
6. Passenger transportation excluding airports.
7. Amateur radio towers.

### Permitted Conditional Uses:

1. Horticulture, feeds mills, and produce stands.
2. Townhouses, multiple family residential, group residential and retirement residential uses.
3. Convalescent services.
4. Cultural services.
5. Limited day care services.
6. Detention facilities.
7. Group care facilities and group homes.
8. Agricultural sales and services.
9. Auction yards and barns.
10. Auto rental/sales services.
11. Auto services including convenience stores with fuel sales and gas stations.
12. Equipment rental/sales.

13. Equipment repair services.
14. Body repair.
15. Dry Cleaners and establishments with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.
16. Outdoor commercial recreation facilities.
17. Gaming facilities in accordance with the statutes of the State of Nebraska.
18. Adult Entertainment establishments, provided:
  - a. No Adult business shall be closer than 1,000 feet to any similar use and no closer than 1,000 feet to a residential district or use, religious uses, educational uses and recreational uses. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business, residential district or use, religious use, educational uses and recreational use.
  - b. Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.
  - c. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
  - d. No adult business shall be open for business between the hours of twelve midnight (12:00 am) and 6:00 a.m.
  - e. The proposed location, design, construction, and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
  - f. Such use shall no impair an adequate supply of light and air to surrounding property.
  - g. Such use shall not unduly increase congestion in the streets or public danger of fire and safety.
  - h. Such use shall not diminish or impair established property values in adjoining or surrounding property.
  - i. Such use shall be in accord with the intent, purpose, and spirit of this Ordinance and the Comprehensive Development Plan of Madison, Nebraska.
  - j. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.
  - k. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of eighteen (18) years of age is allowed on the premises. This section shall not be construed to prohibit the owner from establishing an older age limitation for entering the premises.
  - l. Prohibited Activities of Adult Businesses are as follows:
    - i. No adult business shall employ any person under eighteen (18) years of age.
    - ii. No Adult business shall furnish any merchandise or services to any person who is under eighteen (18) years of age.
    - iii. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.
    - iv. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.
19. Construction yards.
20. Custom manufacturing employing less than ten employees including print shops.
21. Light industry employing less than ten employees.
22. Recycling collection and processing in an enclosed environment (does not include drop off areas).
23. Enclosed and open warehousing subject to screening requirements.

24. Railroad facilities and truck terminals.
25. Alternative energy production not including the manufacturing of flammable fuels.
26. Broadcasting and wireless communication towers.
27. Vehicle storage (short-term).
28. Bed and breakfast establishments.
29. Home occupations.

Permitted Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Temporary buildings, incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs legal under this ordinance.
4. Parking legal under this ordinance.
5. Landscaping pursuant to this ordinance.

Lot, Setbacks, and Height Requirements: The lot, setback and height requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000 sq. ft.	100 feet	30 feet	*	**	45 feet	25%
Permitted Conditional Uses	10,000 sq. ft.	100 feet	30 feet	*	**	45 feet	25%
Accessory Buildings	-	-	30 feet	*	**	45 feet	25%

\* Side Yard setback shall be twenty-five feet (25') when abutting a State Highway or County Road, or shall be fifteen feet (15') when abutting any other street or road, including private roads, and shall be fifteen feet (15') when adjacent to any residential district.

\*\* The Rear Yard setback shall be twenty-five feet (25'). With buildings three stories or greater having a rear yard setback of thirty feet (30').

Use Limitations:

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within fifteen feet (15') of such residential district.
2. When adjacent to any residential district, any construction shall provide a six foot (6') high permanent screen in order to minimize impacts on residentially zoned property pursuant to this ordinance.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
5. All developments shall include access roads and an interior circulation system.

*Intent:* The (II) Urban Industrial District is intended to establish standards for areas within the core city for industrial, wholesaling, and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, and to ensure that and conduct activities that create low to moderate hazards to adjacent properties.

Permitted Uses:

1. *Agricultural Uses including: horticulture, feed mills including grain storage and elevators.*
2. *Civic Uses including: government administration, clubs, detention facilities, maintenance facilities, parks and recreation, postal facilities, safety services, and utilities.*
3. *Commercial Use Types, other than those uses defined in Adult Establishments, including:*
  - a. *Long-term and short-term vehicle storage with proper screening.*
  - b. *Communications services.*
  - c. *Construction sales and services.*
  - d. *Convenience storage.*
  - e. *Surplus sales.*
  - f. *Trade services.*
  - g. *Veterinary services*
4. *Off-Street parking.*
5. *Industrial Use Types including:*
  - a. *Agricultural industries.*
  - b. *Construction yards.*
  - c. *Custom manufacturing.*
  - d. *Light industry.*
  - e. *Recycling services including collection and processing.*
  - f. *Salvage services including junk yards with license from the State of Nebraska.*
  - g. *Enclosed and open (with proper screening) warehousing.*
6. *Railroad facilities and truck terminals.*
7. *Broadcasting, wireless communication and amateur radio towers.*

Permitted Conditional Uses:

1. *Auto rental/sales services.*
2. *Auto services including convenience stores with fuel sales and gas stations.*
3. *Auto Body repair.*
4. *Equipment rental/sales.*
5. *Equipment repair services.*
6. *Dry Cleaners and establishments with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.*
7. *Alternative energy production including flammable fuels and wind energy conservation devices.*
8. *Construction batch plants.*

Permitted Accessory Uses:

1. *Buildings and uses customarily incidental to the permitted and conditional uses.*
2. *Temporary buildings, incidental to construction work where such buildings or structures are removed upon completion of work.*
3. *Signs legal under this ordinance.*
4. *Parking legal under this ordinance.*
5. *Landscaping pursuant to this ordinance.*

Lot, Setbacks, and Height Requirements: The lot, setback and height requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side yard	Rear Yard	Max. Height
Permitted Uses	5,000 sq. ft.	100 feet	15 feet <sup>1</sup>	*	5 feet	60 feet
Permitted Conditional Uses	5,000 sq. ft.	100 feet	15 feet <sup>1</sup>	*	5 feet	60 feet

Accessory Buildings	-	-	-	*	5 feet	60 feet
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<sup>1</sup> 15' Front Setback applies only when use is adjacent to residential zoning districts. Front Setback when adjacent to commercial to industrially zoned areas is 5'.

\* Side Yard setback shall be twenty-five feet (25') when abutting a State Highway or County Road, or shall be fifteen feet (15') when abutting any other street or road, including private roads, and shall be five feet (5') to interior lot lines. Any established setbacks at the time of adoption of this amendment shall not be deemed nonconforming.

Use Limitations:

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within fifteen feet (15') of such residential district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, pursuant to this Ordinance.
2. When adjacent to any residential district, any construction shall provide a six foot (6') high permanent screen in order to minimize impacts on residentially zoned property pursuant to this ordinance.
3. No outdoor storage.
4. Exterior lighting fixtures shall be shaded so no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

Intent: The (I2) Industrial Park District is intended to establish standards for areas suitable for industrial, wholesaling, and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, and to ensure that users of this land conduct activities that create low to moderate hazards to adjacent properties.

Permitted Uses:

1. Agricultural Uses including: horticulture, feed mills including grain storage and elevators, and livestock sales barns or yards.
2. Civic Uses including: government administration, clubs, detention facilities, maintenance facilities, parks and recreation, postal facilities, safety services, and utilities.
3. Commercial Use Types, other than those uses defined in Adult Establishments, including:
  - h. Long-term and short-term vehicle storage with proper screening.
  - i. Communications services.
  - j. Construction sales and services.
  - k. Convenience storage.
  - l. Surplus sales.
  - m. Trade services.
  - n. Veterinary services
4. Off-Street parking.
5. Industrial Use Types including:
  - a. Agricultural industries.
  - b. Construction yards.
  - c. Custom manufacturing.
  - d. Light industry.
  - e. Recycling services including collection and processing.
  - f. Salvage services include junk yards with license from the State of Nebraska.
  - g. Enclosed and open (with proper screening) warehousing.
6. Railroad facilities and truck terminals.
7. Broadcasting, wireless communication and amateur radio towers.

Permitted Conditional Uses:

1. General and limited day care services as an accessory use.
2. Agricultural sales and services.
3. Auction yards and barns.
4. Auto rental/sales services.
5. Auto services including convenience stores with fuel sales and gas stations.
6. Equipment rental/sales.
7. Equipment repair services.
8. Body repair.
9. Business, vocational and trade schools when in conjunction with industrial applications.
10. Dry Cleaners and establishments with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.
11. Heavy Industry.
12. Resource extraction.
13. Passenger transportation excluding airports.
14. Alternative energy production including flammable fuels and wind energy conservation devices.
15. Construction batch plants.
16. Putrescible landfills (subject to licensing by the State of Nebraska)..
17. Home occupations.

Permitted Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Temporary buildings, incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs legal under this ordinance.

4. Parking legal under this ordinance.
5. Landscaping pursuant to this ordinance.

Lot, Setbacks, and Height Requirements: The lot, setback and height requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000 sq. ft.	100 feet	30 feet	*	25 feet	60 feet	35%
Permitted Conditional Uses	10,000 sq. ft.	100 feet	50 feet	*	25 feet	60 feet	35%
Accessory Buildings	-	-	-	*	25 feet	60 feet	20%

\* Side Yard setback shall be twenty-five feet (25') when abutting a State Highway or County Road, or shall be fifteen feet (15') when abutting any other street or road, including private roads, and shall be five feet (5') to interior lot lines.

Use Limitations:

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within fifteen feet (15') of such residential district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, pursuant to this Ordinance.
2. When adjacent to any residential district, any construction shall provide a six foot (6') high permanent screen in order to minimize impacts on residentially zoned property pursuant to this ordinance.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
5. All developments shall include access roads and an interior circulation system.

419 *AHO - Airport Hazard Overlay District*

**Intent:** This district is established as an overlay district for application over any primary zoning district in order to protect the safe use, public investment, and utility of public airports and their Airport Hazard Area, within the extraterritorial zoning jurisdiction of the city of Madison, Nebraska, by limiting the location and height of structures within the operation, approach, transition and turning zones around airports which are licensed by the Nebraska Department of Aeronautics, as designated on the Airport Zoning Map prepared by the Nebraska Department of Aeronautics for the Norfolk Regional Airport (dated \_\_\_\_\_) and on the Official Zoning Map for the City of Madison.

**Designated Public Airport:** The designated public airport for which these regulations have been prepared is the Norfolk Regional Airport located at 4100 S 13<sup>th</sup> Street, in Madison County which has the identified airport turning zone located partially within the planning and zoning jurisdictional area of Madison, Nebraska. Information on the Norfolk Regional Airport can be obtained from the Nebraska Department of Aeronautics at [www.aero.nebraska.gov](http://www.aero.nebraska.gov) or at [www.airnav.com/airports/](http://www.airnav.com/airports/).

**Definitions:** For purposes of the Airport Hazard Overlay, the following terms are defined:

1. **Airport** means an area of land or water that is used or intended to be used for the landing and takeoff of aircraft and includes any related buildings and facilities. Airport includes only public-use airports with state or federally approved airport layout plans and military airports with military service-approved military layout plans.
2. **Airport Hazard** means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft; or penetrates any approach, operation, transition, or turning zone.
3. **Airport Hazard Area** means any area of land or water upon which an airport hazard might be established if not prevented as provided in the Nebraska Airport Zoning Act, but such area shall not extend in any direction a distance in excess of the limits provided for approach, operation, transition, and turning zones.
4. **Airport Layout Plan** means a scaled drawing of existing and proposed land, buildings, and facilities necessary for the operation and development of an airport prepared in accordance with state rules and regulations and federal regulations and guidelines.
5. **Approach Zone** means a zone that extends from the end of each operation zone and is centered along the extended runway centerlines.
6. **Electric Facility** means an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in Section 70-1001.01, R.R.S. 1943, for the transmission or distribution of electrical power to the electric supplier's customers.
7. **Existing Runway** means an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.
8. **Height of Structure** means the height of any building, structure or object measured from its highest point to the nearest existing or proposed runway end elevation.
9. **Instrument Runway** means an existing runway with precision or nonprecision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or non-precision instrument approaches reflected on the airport layout plan. After the effective date of this zoning regulation, an airport shall not designate an existing or proposed runway as an instrument runway if the runway was not previously designated as such without the approval of the airport's governing body after a public hearing on such designation.
10. **Operation Zone** means a zone that is longitudinally centered on each existing or proposed runway.

11. Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.
12. Political Subdivision means any city, village, or county.
13. Proposed Runway means an instrument runway or a visual runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.
14. Runway means a defined area at an airport that is prepared for the landing and takeoff of aircraft along its length.
15. Runway End Elevation means the elevation measured at the end of each runway. The current runway end elevations for the Norfolk Regional Airport are 1572.6 feet for Runway 1 and 1530.3 feet for Runway 19.
16. Structure means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.
17. Transition Zone means a zone that extends outward at a right angle to the runway centerline and upward at a rate of one (1) foot vertically for every seven feet horizontally (7:1). The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of 150 feet above the highest elevation on the existing or proposed runway.
18. Tree means any object of natural growth.
19. Turning Zone shall comprise all portions of the hazard area not contained in the Operation Zones, Approach Zones and in the Transitional Zones.
20. Turning Zone's Outer Limit means the area located at a distance of three (3) miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zone is 150 feet above the highest elevation on the existing or proposed runway.
21. Visual Runway means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an airport layout plan approved by the Federal Aviation Administration, a military service-approved military layout plan, or any planning documents submitted to the Federal Aviation Administration by a competent authority.

Hazard Area Description: In accordance with Neb. Rev. Stat. §3-303, every political subdivision that has adopted an airport hazard area within the area of its zoning jurisdiction, must adopt, administer, and enforce the regulations in this section for such airport hazard area.

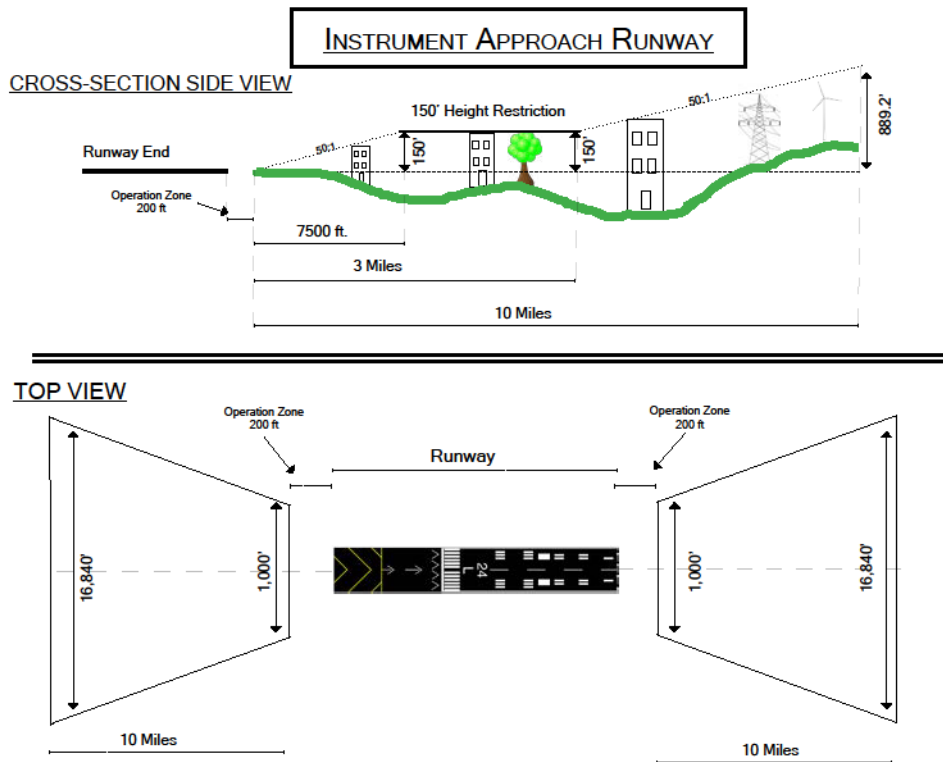
The airport hazard area consists of Operation Zones, Approach Zones, Turning Zones and Transitional Zones. The outer boundary of the hazard area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the Approach and Turning Zones. The inner boundary of the hazard area is a boundary line consisting of a series of intersecting tangents five hundred (500) feet from and parallel to the centerline of the instrument runway or landing strip and two hundred fifty (250) feet from and parallel to the respective centerlines of all other runways or landing strips and connecting the inner boundaries of adjacent Approach Zones at the ends of the runways, landing strips or proposed runways or landing strips.

Zone Descriptions and Regulations: The following are intended for use with this overlay district.

1. **Operation Zones** are longitudinally centered on each existing or proposed runway:

- a. Length. For existing and proposed paved runways, the operation zone extends two hundred (200) feet beyond the ends of each runway. For existing and proposed turf runways, the operation zone begins and ends at the same points as the runway begins and ends;
  - b. Width. For existing and proposed instrument runways, the operation zone is 1,000 feet wide, with 500 feet on either side of the runway centerline. For all other existing and proposed runways, the operation zone is 500 feet wide, with 250 feet on either side of the runway centerline; and
  - c. Height. The height limit of the operation zone is the same as the height of the runway centerline elevation on an existing or proposed runway or the surface of the ground, whichever is higher.
2. **Approach Zones** extend from the end of each operation zone and are centered along the extended runway centerlines. The dimensions of the zones are as follows:
- a. For an existing or proposed instrument runway:
    - (1) Length and Width. An approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is 1,000 feet wide at the end of the zone nearest the runway and expands uniformly to 16,840 feet wide at the farthest end of the zone; and
    - (2) Height Limit. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one (1) foot vertically for every 50 feet horizontally, except that the height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end. At three miles from such operation zone, the height limit resumes sloping one foot vertically for every 50 feet horizontally and continues to the ten-mile limit.
  - b. For an existing or proposed visual runway:
    - (1) Length and Width. An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is 500 feet wide at the end of the zone nearest the runway and expands uniformly so that at a point on the extended runway centerline three miles from the operation zone, the approach zone is 3,700 feet wide; and
    - (2) Height. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one (1) foot vertically for every 40 feet horizontally, except that the height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end.
3. **Transition Zones** extend outward at right angles to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally (7:1). The height limit of these zones begins at the height limit of the adjacent operation zones or approach zones. The transition zones end at a height of 150 feet above the nearest existing or proposed runway end.
4. **Turning Zones** extend three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zones is 150 feet above the nearest existing or proposed runway end.

Height Restrictions: No building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in Section 5.19.05 above:



**Location Sketch and Zoning Map:** The boundaries, Operation Zones, Approach Zones, Transition Zones and Turning Zones of the Norfolk Regional Airport are as indicated on the maps identified in Section 5.19.01, which accompany and are hereby made a part of these regulations, copies of which shall at all times be on file in the office of the City Clerk of Madison, Nebraska.

**Permit Required, Exceptions, Application Forms and Permit Fees:**

1. **Permit Required:** It shall hereafter be unlawful to erect, construct, reconstruct, repair or establish any building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or to plant or replant any tree or other object of natural growth within the boundary of the zoned airport hazard area of the Norfolk Regional Airport without first obtaining a zoning permit from the City Zoning Administrator and review of the Norfolk Airport Authority.
2. **Exceptions:** In the outer area of Approach Zones and within Turning Zones, no such permit shall be required for construction of planting which is no higher than seventy-five (75) feet above the elevation of the end of the nearest runway or landing strip, except for any permits required by other sections of these Regulations.
3. **Application Forms:** Application for a zoning permit as required under these regulations shall be made upon a form or forms to be available in the office of the Zoning Administrator and shall indicate the approximate location, ground elevation with reference to the elevation at the end of the nearest runway or landing strip and height of the proposed structure or planting (Mean Sea Level Elevation).
4. **Permit Fees:** The fee for each zoning permit shall be the normal fee charged by the city plus any other additional fees determined by the city and/or the Norfolk Airport Authority.

**Non-Conforming Uses and Structures:**

1. Within the zoned airport hazard area as hereinbefore defined, no non-conforming building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or object of natural growth shall hereafter be replaced, substantially

reconstructed, repaired, altered, replanted or allowed to grow, as the case may be, to a height which constitutes a greater hazard to air navigation than existed before these regulations were adopted; nor above the heights permitted by these regulations if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of eighty (80) percent or more of their original condition, or abandoned for a period of twelve (12) consecutive months or more. Transmission lines and communication lines as referred to in these regulations shall be interpreted to mean all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the airport hazard zone.

2. Except as provided in subsection (3) of this section for certain electric facilities, all such airport zoning regulations adopted under the act shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit authorizing any replacement, alteration, repair, reconstruction, growth, or replanting must be secured from the administrative agency authorized to administer and enforce the regulations. A permit shall be granted under this subsection if the applicant shows that the replacement, alteration, repair, reconstruction, growth, or replanting of the nonconforming structure, tree, or nonconforming use would not result in an increase in height or a greater hazard to air navigation than the condition that existed when the applicable regulation was adopted. For nonconforming structures other than electric facilities, no permit under this subsection shall be required for repairs necessitated by fire, explosion, act of God, or the common enemy or for repairs which do not involve expenditures exceeding more than sixty percent of the fair market value of the nonconforming structure, so long as the height of the nonconforming structure is not increased over its preexisting height.
3. An electric supplier owning or operating an electric facility made nonconforming by the adoption of airport zoning regulations under the Airport Zoning Act may, without a permit or other approval by the political subdivision adopting such regulations, repair, reconstruct, or replace such electric facility if the height of such electric facility is not increased over its preexisting height. Any construction, repair, reconstruction, or replacement of an electric facility, the height of which will exceed the preexisting height of such electric facility, shall require a permit from the political subdivision adopting such regulations. The permit shall be granted only upon a showing that the excess height of the electric facility will not establish or create an airport hazard or become a greater hazard to air navigation than the electric facility that previously existed.

**Marking of Non-Conforming Structures:** Whenever the Zoning Administrator shall determine, or shall be notified by the Nebraska Department of Aeronautics or the Norfolk Airport Authority, that a specific non-conforming structure or object exists and has existed prior to the passage of these regulations and within the airport hazard zoned area herein before described at such a height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport, the owner or owners and the lessor or lessors of the premises on which such structure or object is located shall be notified in writing by the Zoning Administrator and shall, within a reasonable time, permit the marking thereof by suitable lights or other signals designated by the Zoning Administrator as is based on recommendations of the Nebraska Department of Aeronautics and/or Norfolk Airport Authority. The cost of such marking shall not be assessed against the owner or lesser of said premise.

**Administrative Agency:** The Zoning Administrator of Madison, Nebraska, with the assistance of the Norfolk Airport Zoning Commission, shall administer and enforce these regulations, and Norfolk Airport Authority shall be the administrative agency provided for in Neb. Rev. Stat. Section 3-319 (Reissued 2007), and shall have all the powers and perform all the duties of the administrative agency as provided by the Airport Zoning Act within the zoning jurisdictional area of the City.

**Variance from Regulations:**

1. Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in a manner inconsistent with the airport zoning regulations adopted under this regulation may apply to the board of adjustment for a variance from the zoning regulations in question. Such variances shall be allowed only if the board of adjustment makes the same findings for the granting of variances generally as set forth in subsection section 19-907 through 19-912.01, except that if the applicant demonstrates that the proposed structure or alteration of a structure does not require any modification or revision to any approach or approach procedure as approved or written by the Federal Aviation Administration on either an existing or proposed runway and the applicant provides signed documentation from the Federal Aviation Administration that the proposed structure or alteration of the structure will not require any modification or revision of any airport minimums, such documentation may

constitute evidence of undue hardship and the board of adjustment may grant the requested variance without such findings. Any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this regulation.

2. In granting any permit under or variance from any airport zoning regulation adopted under this regulation, the administrative agency or board of adjustment may, if it deems such action is advisable to effectuate the purposes of the regulation and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

**Board of Zoning Adjustment:** The designated Board of Adjustment of Madison, Nebraska shall be the Board of Zoning Adjustment with respect to these regulations, to have and to exercise the powers conferred by Neb. Rev. Stat. Section 3-320, et. Seq. (Reissued 2007), and duties as are conferred and imposed by law.

**Conflicts:** In the event of any conflict between these airport hazard regulations and any other regulations established by these or other regulations, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, the more stringent or restrictive limitation shall govern and prevail.



# 5

## ARTICLE FIVE

### CONDITIONAL USE PERMITS

#### 501 General Provisions

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

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

A conditional use permit granted by the Council must be implemented within one year of the date of granting. Failure to implement the conditional use permit within one-year of the date of issue will void the conditional use permit. A conditional use permit is non-transferable to a third party and a new conditional use permit shall be applied for in the event of sale or transfer of the use granted a conditional use permit.

#### 502 Applications for Conditional Use Permits

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

#### 503 Public Hearing

Before issuance of any conditional use permit, the Council will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of Madison, one time at least 10 days prior to such hearing.

#### 504 Decisions

A majority vote of the Council shall be necessary to grant a conditional use permit. No order of the Council granting a conditional use permit shall be valid for a period of longer than twelve (12)

months from the date of such order, unless the Council specifically grants a longer period of time upon the recommendation of the Madison County Joint Planning Commission.

**505 Standards**

No conditional use permit shall be granted unless the Joint Planning Commission or City Council has found:

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

# 6

## ARTICLE SIX

### SUPPLEMENTAL REGULATIONS

#### 601 Off-Street Parking

##### 1. Applicability

Off-street parking shall be provided for any new building constructed; for new uses or conversions of existing buildings; or for enlargements of existing structures.

##### 2. Exemptions

Any use within the C2 Central Business District is exempt from the off-street parking requirements provided by Section 603. Any off-street parking facility constructed in the C2 District after the effective date of this Ordinance must comply with the design standards set forth in this Article.

#### 602 Schedule of Off-Street Parking Requirements

Parking facilities for each use shall be provided in accord with the minimum requirements set forth in Table 6-1.

##### 1. Computation

- a. When a computation of required parking results in a fraction of 0.5 or greater, the requirement should be rounded up to the next whole number.
- b. Unless otherwise indicated, parking requirements are based on gross floor area. Gross floor areas for the purpose of this calculation exclude any interior space used for the parking or loading of vehicles.
- c. When parking requirements are computed on the basis of capacity, capacity shall be determined by the building code in effect for the City of Madison at the time the use is established.

##### 2. Multiple Use Sites and Adjustments

- a. For sites with more than one use, the parking requirement shall be the sum of spaces required for each use, except as provided below.
- b. The Board of Adjustment may authorize an adjustment in the total parking requirement for separate uses located on the same site or for separate uses located on adjoining sites and served by the same parking facility. The Board shall consider at least the following criteria in determining approval of such an adjustment:
  - i. The characteristics and time of operation of each use, and differences in projected peak parking demand.
  - ii. Potential reduction in total expected vehicle movements afforded by multiple uses of the parking facilities.
  - iii. Functional design of the development and its parking facilities.
  - iv. Evidence of a written agreement that provides for the joint use of parking facilities.

**603 Parking Facility Location**

1. Residential Parking

- a. Off-street parking for residential uses shall be located on the same lot or site as the use.
- b. Off-street parking areas other than parking in driveways for any residential uses shall be at least six feet from any main building; and shall not be located within a required front yard or street side yard.

2. Non-residential Parking

Off-street parking for non-residential uses shall be located on the same lot or site as the use, or within 300 feet of that use if the parking site is within a zoning district that permits the Off- Street Parking use type. Control of ownership or use rights to the remote off-street parking must be demonstrated as a condition of permission.

**Table 6-1  
Minimum Off-Street Parking Requirements**

<b>Agricultural Use Types</b>	
Horticulture	1 space per 1,000 square feet of sales area.
Crop Production	No requirement.
Animal Production	No requirement.
Commercial Feedlots	No requirement.
<b>Residential Use Types</b>	
Single-Family Residential	2 spaces per dwelling unit.
Duplex Residential	2 spaces per dwelling unit.
Two-Family Residential	2 spaces per dwelling unit.
Multi-Family Residential	1.5 spaces per efficiency or 1-BR unit; 2 spaces per other units; 1 space per 2 units for elderly housing.
Group Residential	1 space for each two residents
Mobile Home Residential	2 spaces per dwelling unit.
Retirement Residential	1 space per independent living unit; 1 space for each 3 units of assisted living
<b>Civic Use Types</b>	
Administration	1 space for 300 square feet.
Cemetery	No requirement.
Clubs	1 space per 4 person capacity in largest assembly space
Colleges and Universities	1 space for every 4 students based on average enrollment during previous 5 years
Convalescent Services	1 space for 4 beds.
Cultural Services	1 space per 500 square feet of public area.
Day Care Services	1 space per 5 person capacity + 1 space per employee of largest shift.
Group Care Facility	1 space per 4 person capacity + 1 space per employee of largest shift.
Group Home	1 space per 4 person capacity + 1 space per employee of largest shift.
Guidance Services	1 space per 300 square feet.
Health Care	1 space per 300 square feet + 1 space per employee of largest shift.
Hospitals	1 space per 2 beds.
Maintenance Facilities	See Schedule A.
Parks and Recreation	No requirement.
Postal Facilities	See Schedule A.
Primary Education	1 space per employee of max shift
Public or Religious Assembly	1 space per 4 person capacity in largest assembly space
Secondary Education	1 space per employee of max shift + 1 space for each 3 11th and 12th grade students. Religious Assembly 1 space per 4 person capacity in largest assembly area.
Safety Services	1 space per employee of maximum shift + 1 stall per 1,000 sq. ft.

**Table 6-1 Continued**  
**Minimum Off-Street Parking Requirements**

Utilities	1 space per employee of maximum shift.
<b>Commercial Use Types</b>	
Agricultural Sales/Service	See Schedule A.
Auto Rental and Sales	See Schedule A.
Auto Service*	4 times service capacity.
Body Repair*	5 spaces per repair stall.
Business Support Services	1 space per 500 square feet.
Campground	1 space per camping unit.
Cocktail Lounge	1 space per 200 square feet.
Commercial Recreation	1 space per 2 person capacity.**
Communication Services	1 space per 500 square feet.
Construction Sales	See Schedule A.
Consumer Services	1 space per 200 square feet.
Convenience Storage	1 space per 20 storage units.
Equipment Sales/Service	See Schedule A.
Food Sales (All Types)	1 space per 200 square feet.
Retail Services	1 space per 200 square feet.
Liquor Sales	1 space per 200 square feet.
Lodging, Bed and Breakfast	1 space per unit + 1 space for each 200 square feet of public meeting area.
Personal Improvement	1 space per 200 square feet.
Personal Services	1 space per 500 square feet.
Pet Services	1 space per 500 square feet.
Restaurants (Drive-in)	1 space per 50 square feet of customer service area.
Restaurants (General)	1 space per 3 person capacity in dining area.
Stables/Kennels	1 space per employee + 1 stall per 5,000 sq. ft. of site area.
Surplus Sales	See Schedule A.
Veterinary Services	1 space per 500 square feet.

\* Auto Service and Body Repair subject to other restrictions applicable under this ordinance:  
 See Section 3: Use Types - “Vehicle Storage”; also, Section 3: Supplemental Use Regulations, “Outdoor Storage.”

\*\* This standard may be reduced by up to 20% at the discretion of the Zoning Administrator, if site plan review demonstrates that circulation and loading patterns accommodate adequate space for queuing and temporary parking by users during the peak hours of operation.

**Table 6-1**  
**Minimum Off-Street Parking Requirements**

<b>Office Use Types</b>	
General Offices	1 space per 300 square feet.
Medical Offices	3 spaces per staff doctor or dentist.
<b>Miscellaneous Use Types</b>	
Broadcasting Tower	No requirement.
Non-Putrescible Landfill	No requirement.
All Landfills	No requirement.
<b>Industrial Use Types</b>	
Agricultural Industries	See Schedule A.
Light Industry	See Schedule A.
General Industry	See Schedule A.
Heavy Industry	See Schedule A.
Railroad Facilities	See Schedule A.
Resource Extraction	1 space per employee on largest shift.
Salvage Services	See Schedule A.
Warehousing	See Schedule A.
Construction Yards	See Schedule A.

**Schedule A**

This schedule sets forth minimum off-street parking requirements for uses with elements that have different functions and operating characteristics

Function of Element	Requirement
Office or Administration	1 space per 300 square feet.
Indoor Sales, Display or Service Area	1 space per 500 square feet.
Outdoor Sales, Display or Service Area	1 space per 2,000 square feet.
Equipment Servicing or Manufacturing	1 space per 1,000 square feet.
Indoor or Outdoor Storage or Warehousing	1 space per 5,000 square feet.

**604 Parking for People with Disabilities**

Each off-street parking facility shall provide the number of parking spaces set forth in Table 6-2 designed and designated for use by people with disabilities. Parking spaces shall be van-accessible. Design criteria and dimensions are set forth in the Off-Street Parking Design Standards and the requirements of the Americans with Disabilities Act. Parking facilities for single-family, duplex, two-family, and mobile home residential uses are exempt from this requirement.

**Table 6-2  
Accessible Parking Requirements**

Number of Stalls	Number of Required Accessible Spaces	Number of Stalls	Number of Required Spaces
1-25	1	201-300	7
25-50	2	301-400	8
51-75	3	401-500	9
76-100	4	501-1,000	2% of total
101-150	5	1,001 and over	20, plus 1 for each 100 stalls over 1,000
151-200	6		
Van Accessible Stalls: One in every eight accessible spaces, but not less than one, shall be served by an access aisle with a minimum width of 96 inches and shall be designated as "Van Accessible."			

**605 Off-Street Parking Design Standards**

1. Dimensions

- a. Standard parking stalls shall be 9 feet wide and 18 feet long.
- b. Parking facilities may provide up to 40% of their total stalls as designated compact stalls. Compact parking stalls shall be a minimum of 8.5 feet wide and 16 feet long.
- c. Spaces designated for the handicapped shall have a minimum width of 12 feet. Each handicapped space shall provide a barrier free route to an accessible building entrance, which shall not require users to walk or wheel behind parked cars. Such spaces shall be designated with an upright sign exhibiting the universal symbol for accessibility by the handicapped. All such paces shall be designed in compliance with the standards of the Americans with Disabilities Act.

2. Pavement and Drainage

- a. Off-street parking facilities shall be hard surfaced and/or maintained with materials sufficient to prevent mud, dust, or loose material. Rock and gravel are not allowable surface materials.
- b. Off-street parking facilities shall be designed and built to prevent the free flow of water onto adjacent properties or public rights-of-way.

3. Landscape and Screening Requirements

Unless otherwise noted, each unenclosed parking facility of over 3,000 square feet shall comply with the following regulations:

- a. Each unenclosed parking facility shall provide a minimum landscaped buffer of ten feet along any street property line.
- b. Each parking facility that abuts a residential district shall provide a ten foot landscaped buffer along its common property line with the residential district.
- c. Any parking facility which abuts property in a residential district shall provide a fence, wall, landscape screen, or earth berm at least four feet in height for the length of the common boundary. A grade change, terrace, or other site feature that blocks the sight line of headlights into a residential property may suffice, subject to the determination of the Zoning Administrator.
- d. Each unenclosed parking facility of over 4,500 square feet within a street yard shall provide interior landscaped area equal to no less than 5 percent of the total paved area of the parking facility. Parking facilities within the Industrial District shall be exempt from this requirement.

4. Entrances and Exits

- a. Adequate access to each parking facility shall be provided by means of clearly defined and limited driveways or access points. Such driveways shall be designed to direct non-residential traffic away from residential areas.
- b. Parking facilities other than driveways for single-family, duplex, two-family, or mobile home residential uses must permit vehicles to enter streets in a forward position.

5. Safety Features

- a. Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating within or entering or leaving the facility; and shall not create blind, hidden, or hazardous areas.
- b. Circulation patterns shall be designed in accord with accepted standards of traffic engineering and safety.

6. Lighting

Any lighting used to illuminate any off-street parking area shall be arranged to direct light away from adjoining properties in any residential district.

7. Maintenance

All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, and litter; maintaining parking surfaces in sound condition; and providing proper care of landscaped areas.

8. Adjustment

For uses subject to Conditional Use Permit approval, the City Council may adjust the minimum requirements of this section, in order to provide design, usability, attractiveness, or protection to adjoining uses in a manner equal to or greater than the minimum requirements of this Article.

**606 Off-Street Loading**

1. Loading Requirement

Any use which involves the receipt or distribution of freight, merchandise, supplies, vehicles, or equipment as part of its typical operation shall provide and maintain adequate space for off-street loading and circulation.

Loading areas shall be designed to avoid undue interference with the public use of streets and sidewalks and shall conform to Section 607, 3b of this ordinance.

2. Schedule of Loading Spaces

Loading spaces for each use requiring them shall be provided in accord with the minimum requirements set forth in Table 9-3.

**Table 6-3  
Off-Street Loading Requirements**

Gross Floor Area of Use (square feet)	Number of Required Loading Spaces
5,000 or less	None
5,001 - 25,000	1
25,001 - 75,000	2
75,001 - 150,000	3
Over 150,000	4 plus one for each additional 100,000 SF

3. Design Standards

- a. Each loading space shall be at least 10 feet wide by 50 feet long, with a vertical clearance of at least 14 feet.
- b. Off-street loading spaces shall be hard surfaced and/or maintained with materials sufficient to prevent mud, dust, or loose material. Rock and gravel are not allowable surface materials.
- c. Off-street loading areas are subject to the landscaping and buffering requirements for parking facilities set forth in this Article.

**607 Parking for Personal and Recreational Vehicles**

1. Applicability

This section permits the parking of personal vehicles on a single lot in a residential district subject to specific conditions. Personal vehicles include: passenger cars; vans; pick-up trucks; camper shells, toppers, and other similar appurtenances intended for attachment to a personal vehicle; trailers less than twenty feet in length, and boats. Trucks, tractor cab units, trailers, recreational vehicles, and vehicles over ten tons gross empty weight shall be defined as heavy commercial vehicles.

2. Location of Parking

- a. Parking is permitted within any enclosed structure when such structure conforms to the regulations of its zoning district.
- b. Parking of personal vehicles is permitted on a paved driveway (outside of an enclosed structure) within the front yard setback, but shall in no case encroach upon the public right-of-way.
- c. Parking of personal vehicles within an interior side yard is prohibited.
- d. Parking of personal vehicles may occur in the rear yard setback (outside of an enclosed structure and not on the front yard paved driveway) if the Zoning Administrator determines that such parking conforms to the provisions of the Zoning Ordinance, meets the following conditions:
  - i. The parking space is provided on a paved surface connected by a paved surface to a dedicated public right-of-way and/or alley.

- ii. The paved parking does not exceed the maximum impervious coverage limit for the lot.
3. Truck Parking Areas Regulations
- a. It shall be unlawful for the operator of any truck, truck-tractor, or semi-trailer or for the operator of any automobile with attached trailer of an overall length of twenty two feet (22') including loading, to stop or park such vehicle for any period of time on any street or alley in the City of Madison.
  - b. Loading and unloading. Such vehicles may stop, stand, or park in alleys for such time as is necessary, in no case longer than one-half (1/2) hour, expeditiously to load or unload their contents and may also stop, stand or park elsewhere on streets or highways, if stopping for loading or unloading in alleys is impossible, only after the operator of the vehicle in question shall obtained a written permit from the Chief of Police.
  - c. No Truck parking on private premises will be allowed, except as permitted in this section.
    - i. No truck, truck-tractor, or semi-trailer or automobile or pickup with attached trailer length of twenty two feet (22') including load shall park or stop for any period on any residentially zoned property within the city limits of the City of Madison.
    - ii. A semi tractor without attached trailer is exempted from any restriction if:
      - a. The vehicle is parked on a paved or gravel driveway entirely off the street and does not block any public sidewalk.
      - b. The vehicle is owned by the legal occupant of the premises or has permission of the legal occupant provided it does not carry any hazardous or restricted material.
      - c. During the periods of October 15 until April 15, such vehicle may run at idle for the purposes of "warming up" the engine for up to 15 minutes.
    - d. No oil tanker, gasoline transport, or tank truck transporting inflammable liquid shall park or stop for any time at any point within the city limits except to load or unload its cargo in a safe and expeditious manner and shall otherwise conform to Section 607, 3c above.
4. Special Provisions for Recreational Vehicles and Boats

Where permitted, parking and storage of recreational vehicles and boats is subject to the following additional conditions:

- a. Recreational vehicles and boats must be maintained in a clean, well-kept state.
- b. Recreational vehicles and boats equipped with liquefied petroleum gas containers must ensure that such containers must meet the current standards of the Interstate Commerce Commission, the United States Department of Transportation, or the American Society of Mechanical Engineers. Any valves must be closed at all times that the vehicle is not in preparation for immediate use. Leaks in containers must be repaired immediately.
- c. The vehicle may be used by non-paying guests for a maximum of three consecutive days or fourteen days during any calendar year.
- d. Recreational vehicles and boats may not be permanently connected to utility lines.
- e. Recreational vehicles and boats may not be used for the storage of goods, materials, or equipment other than those items which pertain to the use of the vehicle.
- f. Vehicles longer than 20 feet may be parked or stored within the TA district if situated within rear yards or interior side yards behind the required front yard setback.

**608 SIGN REGULATIONS**

The Sign Regulations provide standards for communicating information in the environment of the City of Madison and its jurisdiction. The regulations recognize the need to protect public health, safety, and welfare; to maintain the city's attractive appearance; to provide for adequate business identification, advertising, and communication of information; and to encourage the fair enforcement of sign regulations.

**609 Definition of Terms**

The following definitions shall be used for terms contained in this chapter that are not otherwise defined in the Madison Municipal Code or in this Zoning Ordinance.

1. **Abandoned Sign:** A sign, including sign face and supporting structure, which refers to a discontinued business, profession, commodity, service, or other activity or use formerly occupying the site; or which contains no sign copy on all sign faces for a continuous period of six months.
2. **Attached Sign:** A sign which is structurally connected to a building or depends upon that building for support.
3. **Auxiliary Design Elements:** Terms which describe secondary characteristics of a sign, including its method of illumination and other features within the bounds of its basic shape.
4. **Awning and Awning Sign:** A temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for a supporting framework. An awning sign is a message printed on such a shelter.
5. **Banner:** Material with a printed message or graphic secured or mounted from a structure in such a way as to allow wind movement.
6. **Building Marker:** An historic or commemorative plaque, or a building name or cornerstone carved into a masonry surface.
7. **Business Center Identification Sign:** A sign which identifies a building or group of commercial buildings in single ownership or control, sharing parking and access.
8. **Canopy:** A projecting non-movable structure cantilevered or suspended from a building, supported by the main structural members to which it is attached, and used only as a roof or fixed shelter.
9. **Canopy Sign:** A sign which is attached or made an integral part of a canopy.
10. **Clearance:** The distance from the bottom of a sign face elevated above grade and the grade below.
11. **Detached Sign:** A sign which is self-supporting and structurally independent from any building.
12. **Directional Sign:** A sign which serves only to designate the location or direction of any area or place.
13. **Double-Faced Sign:** A sign consisting of no more than two parallel faces supported by a single structure.
14. **Frontage:** The length of a property line of any one premises abutting and parallel to a public street, private way, or court.
15. **Ground Sign:** A detached on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance no greater than 3 feet.
16. **Illumination:** Lighting sources installed for the primary purpose of lighting a specific sign or group of signs.

17. Marquee: A permanent roofed structure attached to and supported by a building and extending over public right-of-way.
18. Maximum Permitted Sign Area: The maximum permitted combined area of all signs allowed on a specific property.
19. Monument Sign: An on-premise freestanding sign with the appearance of a solid base. The width of such base shall be at least 75 percent of the width of the sign.
20. Moving Sign: A sign which conveys its message through rotating, changing, or animated elements.
21. Nonconforming Sign: A sign that was legally erected prior to the adoption of this chapter but which violates the regulations of this chapter.
22. Pole Sign: An on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance greater than 3 feet, and where the support encompasses less than 75% of the width of the sign.
23. Portable Sign: Any sign supported by frames or posts rigidly attached to bases not permanently attached to the ground or a building and capable of being moved from place to place.
24. Premise Identification Sign: An sign which pertains to the use of a premises and which contains information about the owner or operator of that use; the type of business being conducted or the principal brand name of a commodity sold on the premises; and other information relative to the conduct of the use.
25. Premises: A tract of one or more lots or sites which are contiguous and under common ownership or control.
26. Projecting Signs: A sign other than a wall sign that is attached to and projects from a building face.
27. Residential Sign: A small detached or attached sign located on a residential premise, conveying a message communicated by the owner of the property.
28. Roof Sign: Any sign or part of sign erected upon, against, or directly above a roof or on top of or above the parapet or cornice of a building.
  - a. Integral Roof Sign: A roof sign positioned between an eave line and the peak or highest point on a roof, substantially parallel to the face of a building.
  - b. Above-peak Roof Sign: A roof sign positioned above the peak of a roof or above a parapet or cornice.
29. Sign: A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.
30. Sign Type: A functional description of the use of an individual sign. Includes owner identification, advertising, directional, electronic message, and temporary.
31. Street Facade: Any separate external face of a building, including parapet walls and omitted wall lines, oriented to and facing a public street, private way, or court. Separate faces oriented in the same direction or within 45 degrees of one another are considered part of the same street facade.
32. Temporary Signs: A sign, flag, banner, pennant, or valance constructed of light weight materials which is not permanently attached to building or land, and which is intended for display for a limited period of time.
33. Wall Sign: A sign attached to and parallel with the side of a building.

34. **Window Sign:** A sign painted on or installed inside a window for the purpose of viewing from outside the premises.
35. **Zone Lot:** A parcel of land in single ownership that is large enough to meet the minimum zoning requirements of its zoning district and can provide such yards and other open spaces that are required by the site development regulations.

## **610 General Sign and Street Graphics Regulations**

### Compliance

Each sign or part of a sign erected within the zoning jurisdiction of the City of Madison must comply with the provisions of this chapter and of other relevant provisions of the City of Madison's Municipal Code; and relevant building codes including the:

Uniform Building Code.

National Plumbing Code.

National Electric Code.

Rules and Regulations Relating to the Control of Advertising in Areas Adjacent to the Interstate and Federal Aid Primary Highways (Nebraska Department of Roads)

### Resolution of Conflicting Regulations

This chapter is not meant to repeal or interfere with enforcement of other sections of the City of Madison's Municipal Code. In cases of conflicts between Code sections, State or Federal Regulations, the more restrictive regulations shall apply.

### Prohibited Signs

The following signs are prohibited in all zoning districts.

1. Signs painted on or attached to rocks, trees, or other natural objects.
2. Signs or sign structures which resemble or conflict with traffic control signs or devices, which mislead or confuse persons traveling on public streets, or which create a traffic hazard.
3. Signs on or overhanging public property or public right-of-way, unless specifically authorized by the appropriate public agency.
4. Signs which create a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscure official signs or signals.
5. Abandoned signs. Any abandoned sign must be removed within six months of date of abandonment.
6. Portable signs, including signs painted, mounted, or printed on parked vehicles and trailers, except as provided below.
7. Signs that are not clean or in substantial good repair, or are not affixed to a sound structure.
8. Signs advertising activities that are illegal under Federal, state, or local laws and regulations.

### Exempt Signs

The following signs are permitted in any zoning district and are exempt from other provisions of this chapter.

1. Bulletin boards for religious assembly or school uses, provided that they have a maximum sign area of 20 square feet and are not located in a required sign setback.
2. Real estate signs.
3. Official signs authorized by a government or governmental subdivision which give traffic, directional, or warning information.
4. Seasonal decorations for display on private or public property.
5. On-premise construction signs.
6. One temporary sign per zoned lot for grand openings or special events, provided that such sign remains in place for a maximum of seven days.
7. Works of graphic art painted or applied to building walls which contain no advertising or business identification messages.
8. Residential signs under 2 square feet in size.
9. Neighborhood or subdivision identification signs under 50 square feet.
10. Street numbers.
11. Signs which are not visible from a public right-of-way, private way, or court or from a property other than that on which the sign is installed.

#### Temporary and Civic Signs

1. Temporary or portable signs for grand openings, sales, and special events are permitted in Commercial and Industrial zoning districts, subject to the following requirements:
  - a. Such signs are subject to the permit procedures set forth in this section.
  - b. The size of such signs does not exceed the limitations set forth in Table 6-6.
  - c. No more than one such sign is permitted at any single premises.
  - d. Temporary or portable signs may be present at any single premises for a maximum of 30 days per year.
2. Temporary signs for non-profit civic campaigns or events, political campaigns, or other non-commercial events are permitted in any zoning district and are exempt from other provisions of this Article, subject to the following requirements:
  - a. Such signs are subject to the permit procedures set forth in this section.
  - b. Such signs are installed no earlier than 30 days before the date of the event or election and removed no later than 7 days after the date of the event or election.
  - c. The maximum size of such signs is 10 square feet when located in any residential and C-2 Limited Commercial zoning district; and 100 square feet in any other zoning district.

#### Buffers

No sign other than on-premise directional signs shall be placed within any buffer required by Article Eight, Landscaping and Screening Regulations, except buffers adjacent to intervening major streets.

### Vision-Clearance Area

No sign may project into or be placed within a vision-clearance area defined by a triangle with legs of forty feet from the point at which the curbs or edges of two intersecting streets, private ways, or courts or an intersecting street, private way, or court and driveway, meet.

## **611 General Regulations: Basic Design Elements for On-premise Signs**

### Wall Signs and Graphics

Wall signs and graphics are subject to the following general regulations.

1. A wall sign shall not extend more than 30 inches from the wall to which it is attached.
2. A wall sign must be parallel to the wall to which it is attached.
3. A wall sign may not extend beyond the corner of the wall to which it is attached, except where attached to another wall sign, it may extend to provide for the attachment.
4. A wall sign may not extend beyond its building's roof line.
5. A wall sign attached to a building on its front property line may encroach upon public right-of-way by no more than 18 inches. Such a wall sign shall provide minimum clearance of eight feet, six inches.
6. For the purpose of calculating permitted sign areas pursuant to this chapter, signs painted on the walls of buildings shall be considered wall signs.
7. Where permitted, canopy signs are counted as wall signs when calculating total permitted sign area.

### Projecting Signs and Graphics

Projecting signs and graphics are subject to the following general regulations.

1. The maximum projection of any projecting sign in the C-3 District shall be as follows:
  - a. 4 feet over public sidewalks less than 12 feet wide;
  - b. 6 feet over public sidewalks 12 feet wide or more, or over private property.

No projecting sign in any other district may project by more than 24 inches into a required setback.

2. A projecting sign may be no closer than two feet from the vertical plane of the inside curb line.
3. Each projecting sign must maintain at least the following vertical clearances:
  - a. Eight (8) feet, six (6) inches over sidewalks; except that a canopy may reduce its vertical clearance to seven (7) feet, six (6) inches;
  - b. Ten (10) feet outside of parking areas or driveways, but within three feet of such areas; or within fifty (50) feet of the right-of-way lines formed by a street intersection;
  - c. Fourteen (14) feet over parking lots;
  - d. Eighteen (18) feet over alleys or driveways.
4. No projecting sign extending three feet or more from a property line may be located within 22 feet of any other projecting sign extending three feet or more from a property line.

5. Projecting signs must minimize visible support structure and may not expose guy wires, cables, turnbuckles, angle iron, or other similar external support structure.

#### Pole Signs

Pole signs, where permitted, are subject to the following general regulations:

1. Each pole sign must maintain at least the following vertical clearances:
  - a. Eight (8) feet, six (6) inches over sidewalks; except that a canopy may reduce its vertical clearance to seven (7) feet, six (6) inches;
  - b. Ten (10) feet outside of parking areas or driveways, but within three feet of such areas; or within fifty (50) feet of the right-of-way lines formed by a street intersection;
  - c. Fourteen (14) feet over parking lots;
  - d. Eighteen (18) feet over alleys or driveways.
2. Permitted pole signs may revolve at a rate not to exceed six revolutions per minute.

#### Roof Signs

Roof signs are subject to the following regulations:

1. Where permitted, integral roof signs may be used interchangeably with wall signs.
2. Integral roof signs may not exceed the permitted height for pole signs.
3. An integral roof sign must be mounted parallel to the wall of the building that it faces.

## **612 General Regulations: Other Design Elements**

#### Illumination

1. Lighting, when installed, must be positioned in such a manner that light is not directed onto an adjoining property or onto a public street or highway.

#### Marquees and Marquee Signs

1. Signs placed on, attached to, or constructed on a marquee are subject to the maximum projection and clearance regulations of projecting signs.

#### Banners

1. A banner sign projecting from a building may not exceed the wall height of the building.
2. Maximum projection for any banner is five feet with a minimum clearance of ten feet.
3. Maximum size of a banner is the lesser of twice the permitted size of a projecting sign or 120 square feet.

#### Clocks

For the purposes of this chapter, clocks are not considered a moving sign.

**613 Specific Regulations for Zoning Districts**

This Section sets forth regulations and design standards for signs and graphics for each zoning district.

**614 Method of Measurement for Regulators**

Maximum Permitted Sign Area

Maximum permitted sign area for a premises is set forth as a numerical limit or as a function of the frontage of the premises on a street or private way. For properties with frontage on more than one street or private way, the total frontage shall be calculated as the longest frontage plus one-half the length of all additional frontages.

Sign Area

1. Sign area includes the entire area within the perimeter enclosing the extreme limits of the sign, excluding any structure essential for support or service of the sign, or architectural elements of the building.
2. The area of double-faced signs is calculated on the largest face only.
3. The sign area for ground signs, monument signs, and architectural sign bands is calculated as the area enclosing the extreme limits of the copy only.
4. In the case of individual letters mounted to a wall, only the total area of the letters themselves is included within the sign area.

Height

The height of a sign is measured from the average grade level below the sign to the topmost point of the sign or sign structure.

Setback

The setback of a sign is measured from the property line to the supporting frame, mast, pole or base of the sign.

**615 Permitted Sign Types by Zoning Districts**

Table 6-4 sets forth the sign types permitted within each zoning district of the City of Madison.

**616 Auxiliary Design Elements**

Table 6-5 sets forth auxiliary design elements permitted within each zoning district of the City of Madison.

**617 Maximum Permitted Sign Area**

Table 6-6 sets forth the maximum sign area permitted within each zoning district of the City of Madison.

**618 Permitted Signs by Numbers, Dimensions, and Location**

Table 6-6 sets forth the maximum permitted numbers of signs per premise; the maximum permitted dimensions of each sign; and the required setbacks for detached signs.

**619 General Permit Procedures**

Applicability

Any installation, modification, or expansion of any sign which is not exempt from the provisions of this Article shall be subject to the following permit procedure prior to installation.

### Maintenance of Valid Sign Permit

The owner of a property containing signs requiring a permit under this ordinance shall at all times maintain in force a sign permit for such property. Sign permits shall be issued for individual zoned lots. A sign permit may be revoked if the sign is not maintained in good condition.

### Sign Permit Applications

All applications for sign permits shall be submitted to the Zoning Administrator in accordance with application specifications established by the Building Inspector.

### Application Fees

Each application for a sign permit shall be accompanied by any applicable fees, which shall be established by the City Council from time to time by resolution.

### Action

Within ten working days of the submission of a complete application for a sign permit, the Zoning Administrator shall either:

1. Issue the sign permit, if the sign conforms to the provisions of this Article.
2. Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform to the requirements of this Article.

### Permit Expiration

If a sign is not constructed in accordance with an approved permit within six months of the date of approval, such permit shall lapse.

### Assignment of Sign Permits

A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises.

## **620 Nonconforming Signs**

1. All permanent signs in place and lawfully established on the effective date of this Ordinance shall be considered as legal nonconforming signs. The copy of such a sign may be changed from time to time, provided that the sign area shall not be enlarged beyond the sign area in existence on the effective date.
2. Any nonconforming sign which presently is or becomes structurally damaged or deteriorated, or is altered by more than 50% of its replacement cost, shall be either removed or altered so as to comply with this Article.
3. For business centers pre-existing on the effective date of this Ordinance which do not conform to the total permitted sign area provisions of this Article, individual signs may be replaced, modified, or substituted prior to December 31, 2011. Each sign shall conform to the applicable regulations for individual signs and shall be installed so as to reduce the total amount of the nonconformance.

## **621 Discontinuance of Nonconforming Signs**

Within any zoning district, all on-premise signage must comply fully with the provisions of this Ordinance, unless otherwise provided, within fifteen years of the effective date of this Ordinance.

**Table 6-4: Permitted Signs by Type and Zoning Districts**

Sign Types	AG	RT	R1	R2	R3	MH	C1	C2	C3	I
<b>Detached Signs</b>										
Residential	P	P	P	P	P	P	P	N	N	N
Premise Identification	P	P	P(C)	P	P	P	P	P	P	P
Directional	P(C)	P(C)	P(C)	P	P	P(C)	P	P	P	P
Ground	P	P	P	P	P	P	P	P	P	P
Pole	N	N	N	N	N	N	N	N	P	P
<b>Attached Signs</b>										
Awning	N	N	S	P	P	P	P	P	P	P
Banner	N	N	N	N	N	N	P	P	P	P
Building Marker	P	P	P	P	P	P	P	P	P	P
Canopy	N	N	N	P	P	N	P	P	P	P
Premise Identification	P	P(C)	P(C)	P	P	P	P	P	P	P
Directional	P(C)	P(C)	P(C)	P	P	P	P	P	P	P
Marquee	N	N	N	N	N	N	P	P	P	P
Projecting	N	N	N	N	N	N	N	P	P	P
Roof, Integral	N	N	N	N	N	N	P	P	P	P
Roof, Above Peak	N	N	N	N	N	N	N	N	N	P
Wall	P	P	P	P	P	P	P	P	P	P
Window	N	N	N	N	N	N	P	P	P	P
<b>Miscellaneous</b>										
Flag	P	P	P	P	P	P	P	P	P	P
Portable	N	N	N	N	N	N	N	N	N	N

**P:** Permitted for All Uses **P(C):** Permitted for Civic Use **S:** Permitted by Special Permit **N:** Not Permitted

**Table 6-5 Permitted Signs by Type and Zoning Districts**

Sign Types	AG	RT	R1	R2	R3	MH	C-1	C-2	C-3	I-1
<b>Design Element</b>										
<b>Illumination</b>										
Indirect	P(C)	P(C)	P(C)	P(C)	P(C)	P (C)	P	P	P	P
Direct	N	N	N	N	N	N	N	N	N	N
Internal	P(C)	P(C)	P(C)	P	P(C)	P(C)	P	P	P	P
Neon	N	N	N	N	N	N	P	P	P	P
Flashing	N	N	N	N	N	N	N	N	N	N
Flame	N	N	N	N	N	N	N	N	N	N
Bare Bulb	N	N	N	N	N	N	N	N	N	N
<b>Other</b>										
Electronic Information	N	N	N	N	N	N	P	P	P	P
Moving	N	N	N	N	N	N	P	N	P	P
Rotating	N	N	N	N	N	N	P	N	P	P

**P:** Permitted for All Uses

**P(C):** Permitted for Civic Uses

**N:** Not Permitted

**Table 6-6: Permitted Signs by Maximum Permitted Area and District**

*This Maximum Permitted Area for all signs on a premises excluding incidental signs, building marker signs, and flags shall not exceed the lesser of the following:*

Zoning District	AG	RT R1 MH	R2	C1	C2	C3	I
Square Feet of Signage per Linear Foot of Frontage	NA	NA	NA	1.0	1.50	1.5	1.5
Maximum Total Square Feet	Note 1	Note 2	Note 2	300 Note 3	300 Note 4	400 Note 4	400 Note 4

**Note 1:**

One-hundred (100) square feet for civic or commercial uses, two (2) square feet for residential uses, including home occupations.

**Note 2:**

Forty-eight (48) square feet for project identification signs for multi-family or mobile home developments and for non-residential uses when permitted; thirty-two (32) square feet for civic uses, two (2) square feet for residential uses, including home occupations.

**Note 3:**

Maximum limits apply to non-residential premises only. On premises with primary residential use, seventy-five (75) square feet for project identification signs for multi-family developments, two (2) square feet for residential uses, including home occupations.

**Note 4:**

One additional Business Center Identification Sign with a maximum area of one-hundred-fifty (150) square feet is permitted subject to the regulations set forth by Table 6-6.

**Table 6-7: Permitted Signs by Numbers, Dimensions, and Location**

Each individual sign shall comply with the regulations for maximum quantity, maximum size, minimum setbacks, and height limits shown in this table:

Zoning District	AG	TA R-1 MH	R-2	C-2	C-3	C-1	I-1 I-2
<b>Detached Signs</b>							
<b>Number Permitted Per Premise</b>	1	1	1	1	1	NA	NA
<b>Per Feet of Frontage</b>	NA	NA	NA	NA	NA	1 per 200	1 per 200
<b>Maximum Size* (sq. ft.)</b>	100*	x	x	100	100	100	150
<b>Maximum Height (feet) of Structure Above Ground</b>	20	10	10	15	20	20	20
<b>Front Yard Setback (feet)</b>	10	5	10	10	0	0	0
<b>Side Yard Setback (feet)</b>	10	10	10	10	0	5	0
<i>Attached Signs</i>							
<b>Maximum Size* (sq. ft.)</b>	100	x	x	100	150	150	200
<b>% of Street Facade</b>	NA	NA	NA	20%	20%	20%	25%

See Table 6-6 for maximum sign sizes.

**Note 1:**

In addition to its total permitted sign area, each premises used for a business center may have one detached Business Center Identification sign, subject to the following conditions:

1. The maximum area for a Business Center Identification sign shall be one-hundred-fifty (150) square feet.
2. No Business Center Identification sign shall be within three-hundred (300) feet of any other center identification sign or within one-hundred-fifty 150 feet of any other detached sign on the same or adjacent premises.
3. The sign shall display no more than the name and location of the business center.
4. Each sign shall be subject to all other regulations for detached signs or graphics set forth in this Article.

## 621 Wireless Communication Tower

### Intent:

The Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act), grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunications services. This section is intended to regulate towers, telecommunications facilities and antennas in the City in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunications services, telecommunications facilities, towers and antennas in the City, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use/collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

### Definitions:

All terms in this Section which are not specifically defined herein shall be constructed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

1. Antenna: A device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.
2. Antenna Support Structure: Any building or structure other than a tower which can be used for location of telecommunications facilities.
3. Applicant: Any person that applies for a Tower Development Permit.
4. Application: A process by which the owner of a tract of land within the zoning jurisdiction of the City submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the City concerning such request.
5. Conforming Commercial Earth Station: A satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.
6. Engineer: Any engineer qualified and licensed by any state or territory of the United States of America.
7. Owner: Any person with a fee simple title or a leasehold exceeding ten (10) years in duration to any tract of land within the zoning jurisdiction of the City who desires to develop, construct, modify, or operate a tower upon such tract of land.
8. Person: Any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
9. Satellite Dish Antenna: An antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by as structure with or without a reflective component to the radiating dish, usually circular in shape.
10. Stealth: Any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas

integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.

11. Telecommunications Facilities: shall mean any cables, wires, lines, wave guide, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
  - a. Any Conforming Commercial Earth Station antenna that measures six feet (6') or less in diameter which is located on real estate zoned AG,RT,R1,R2,R3,MH, C1,C2, C3, or I.
  - b. Any earth station antenna or satellite dish antenna of three feet (3') or less in diameter, regardless of zoning applicable to the location of the antenna.
12. Tower: A self-supporting lattice, guyed, or monopole structure which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operators' equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
13. Tower Development Permit: A permit issued by the City upon approval by the City Council of an application to develop a tower within the zoning jurisdiction of the City. Such permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permits duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.
14. Tower Owner: Any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

#### Locations of Towers and Construction Standards:

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

#### Applications to Develop a Tower:

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. All applicants shall execute the application.
2. The legal description and address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one (1) mile radius of the proposed tower, including publicly and privately owned towers and structures.

4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support, or written technical evidence from an engineer that the applicant's telecommunications facilities cannot be installed or collocated on another tower or usable antenna support structure.
5. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the City Council and federal and state and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and/or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturer's literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
8. A performance bond in the amount of fifty-thousand dollars (\$50,000) for the expenses of removal and disposal of the tower.

Tower Development Permit Procedure:

After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following all statutory requirements for publication and notice, to consider such application. The Joint Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the City Council. Upon the completion of the Joint Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the City Council, following all statutory requirements for publication and notice, to consider such application and the recommendation of the Joint Planning Commission. Notice, for each Public Hearing shall be made at least one (1) time and at least ten days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. The Joint Planning Commission and City Council may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it seems reasonable and appropriate based upon the application and/or input received at the public hearing or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

Setbacks and Separation of Buffer Requirements:

1. All towers up to fifty feet (50') in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of fifty feet (50') in height shall be set back an additional one foot (1') for each on foot (1') of tower height in excess of fifty feet (50'). The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Towers exceeding one hundred feet (100') in height may not be located in any residentially zoned district. Further, such towers shall also be separated from all residentially zoned districts, and any other occupied structures other than those utilized by the tower owner, by a minimum of two hundred feet (200') or one hundred percent (100%) of the height of the proposed tower, whichever is greater.
3. Towers of one hundred feet (100') or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of the tower.
4. Towers must meet the following minimum separation requirements from other towers:

- a. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of seven-hundred-fifty feet (750')
- b. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of one-thousand-five-hundred feet (1,500').

Structural Standards for Towers:

The *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are in hereinafter deleted, modified, or amended by regulations and set forth in this Article of the Zoning Regulations.

Illumination and Security Fences:

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses/zoned properties within a distance of three-hundred percent (300%) of the height of the tower, and tower subject to this Section shall be equipped with dual mode lighting.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which preclude to the extent practical, unauthorized climbing of said structure.

Exterior Finish:

Towers not requiring FAA painting or markings shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Joint Planning Commission and City Council as part of the application process. All towers which must be approved as a conditional use shall be design with stealth features unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.

Landscaping:

All tracts of land on which towers, antenna support structures, telecommunications facilities are located shall be subject to the landscaping requirements of the City.

Maintenance, Repair or Modification of Existing Towers:

All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section.

Non-conforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the City Council, an exemption from compliance as a condition of the Tower Development Permit.

Inspections:

As a condition of a Tower Development Permit, the applicant shall grant to the City the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the City's Building Codes and any other construction standards set forth by the City, federal and state law or applicable ANSI standards. Applicant shall also grant permission to any

employee of the City or other duly appointed independent representative of the City, to enter onto the property of applicant for the purpose of conducting such inspection.

Maintenance:

The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.

Abandonment:

1. The tower owner shall be required to notify the Zoning Administrator of any periods of nonuse or abandonment of the tower facility.
2. If any tower shall cease to be used for a period of one (1) year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have thirty (30) days to show by a preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower shall have seventy-five (75) days, thereafter to dismantle and remove the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee pursuant to authority of the Nebraska State Statutes and City of Madison codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

Satellite Dish Antennas, Regulation:

1. In residentially zoned districts, satellite dish antennas may not exceed a diameter of ten feet (10').
2. Single family residences may not have more than one (1) satellite dish antenna over three feet (3') in diameter.
3. Multiple family residences with ten (10) or less dwelling units may have no more than one (1) satellite dish antenna over three feet (3') in diameter. Multiple family residences with more than ten (10) dwelling units may have no more than two (2) satellite dish antennas over three feet (3') in diameter.
4. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.
5. All satellite dish antennas installed within the zoning jurisdiction of Madison, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

**622 Fences**

No fences shall be constructed within the zoning jurisdiction of the City of Madison unless a permit therefore is approved and issued by the Zoning Administrator, except for non-electrified fencing in an AG-Agricultural district for agricultural purposes. All fencing in the zoning jurisdiction of Madison shall be constructed in conformance with the following requirements:

1. The height limitation for fences shall be six feet (6') above ground level except as provided herein.
2. A fence constructed within a front yard of a residential lot and/or vegetation used as a barrier, screen, or fence within a front yard of a residential lot shall not exceed forty-two inches (42") in height.

3. Where it demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must not be higher than eight feet (8') in height may be approved through a Conditional Use Permit.
4. Fences constructed along and parallel to lot lines separating a residentially zoned lot from property located in a Commercial or Industrial District shall not exceed eight (8') in height.
5. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed six (6') in height.
6. Fences located within a front or side yard of a residential lot must qualify within the definition of an open fence, except that solid fences may be constructed along a side lot line parallel and adjacent to the lot line that is adjacent to a Commercial or Industrial District. A solid fence may be constructed in a side yard parallel and adjacent to the lot line that is adjacent to a street, but no closer to the street as the allowed side yard setback.
7. No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.
8. The use of barbed wire in the construction of any fence is prohibited except:
  - a. Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the Zoning Administrator before commencement of construction.
  - b. Farm fencing constructed for agricultural purposes.
9. All fences shall be maintained in good repair.
10. All fences shall be located inside the boundaries of the property upon which constructed except where two (2) adjacent property owners pursuant to a written agreement filed with the City at the time of applying for a fence permit, agree to build one (1) fence on the common lot line of adjacent side yards or back yards.
11. Electric fences may not be constructed or maintain within the City of Madison or within its extraterritorial jurisdiction except in the AG-Agricultural District. An owner or lessee or such property may, upon application to the City and approval by the Zoning Administrator, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Zoning Administrator shall approved any electrified fencing, he shall determine that non-electric fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.
12. The finished surface of all fencing shall face toward adjoining property or street frontage. However, in the case of two (2) or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.
13. Any existing fence constructed pursuant to a permit issued and approved by the City of Madison which was in conformity with the prior provisions of this section and which was in place as of said date, may remain without change in accordance with this section notwithstanding same may be in conflict with one (1) or more provisions of this section as amended; provided, however, and replacement or change of said existing fence or addition of a new fence, must hereby meet the requirements of this section as amended hereby.
14. All non-portable swimming pools, with a depth of which is greater than twenty-four inches (24"), must be enclosed at ground level by a six foot (6') high fence in which no opening shall permit the passage of a six inch (6") diameter sphere. All gates must have locking hardware to prevent access when not in use.

## 623 Storage of Parking of Vehicles, Boats, Campers and Trailers

### Motor Vehicle Storage:

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

1. The storage or keeping of motor vehicles not having a properly issued current motor vehicle registration and current motor vehicle license plate properly displayed; provided, however, that following shall not constitute a violation of this subparagraph.
2. The storage of unlicensed and/or unregistered motor vehicles except in a fully enclosed garage.
3. The storage or keeping of operable off-highway farm or industrial vehicles on tracts zoned Ag-Agriculture or I-Industrial and used in agricultural or industrial activity conducted on said premises.
4. The storage, keeping or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, except in enclosed buildings or garages or where otherwise authorized by the Madison zoning regulations.
5. Parking, storage, or keeping, other than in a fully enclosed garage, of any non-operable motor vehicle on any lot zoned residential, provided, however, that automobiles that are non-operable solely be reasons of repair work being done thereon may be parked on residential lots within the Madison zoning jurisdiction occupied by the owner of said automobile, under the following conditions:
  - a. The automobile is owned by the owner of the premises and registered to him/her at that address.
  - b. The period of said repair work does not exceed ten (10) days in duration.
  - c. Said repair work is at times conducted on a hard surface driveway; and
  - d. No more than one (1) automobile in need of repair is situated on the premises at the same time.
6. No motor vehicle as defined by section 60-301 of Nebraska State Statutes shall be parked in the front or rear yard of any lot zoned residential except on pave driveways or other hard surfaced areas as designed and provided for in Article 2.
7. Any motor vehicle stored or kept in violation of the provisions hereof may be removed by the City. All towing, storage and other costs of removal pursuant to this section shall be solely at the expense of the owner of the premises from which the vehicle is situated, and if the owner of the premises is different that the occupier of the premises, then both owner and occupier shall be jointly and severally liable. In addition, the City, upon certifying the same to the county treasurer, shall have a lien against the premises in the full amount of such removal costs, together with interests at the highest legal rate that the City is authorized to collect on special assessments.

### Boats, Campers and Trailers:

1. No boat, camper, trailer or any combination thereof as defined by section 60-301 of Nebraska State Statutes shall be parked in the front or rear yard of any lot zoned residential except on pave driveways or other hard surfaced areas as designed and provided for in Article 2; provided that;
  - a. Boats, campers, trailers or any combination thereof not exceeding two (2) may be parked in the side or rear yard of lots zoned residential from October through April of each year without being parked on a hard surface. A camper or boat situated on a trailer shall be considered as one vehicle.

- b. Said boats, campers and trailers together with accessory structures shall not occupy more than thirty-five percent (35%) of the required rear yard.
2. Any boat, camper, or trailer stored or kept in violation of the provisions hereof may be removed by the City. All towing, storage and other costs of removal pursuant to this section shall be solely at the expense of the owner of the premises from which the vehicle is situated, and if the owner of the premises is different than the occupier of the premises, then both owner and occupier shall be jointly and severally liable. In addition, the City, upon certifying the same to the county treasurer, shall have a lien against the premises in the full amount of such removal costs, together with interests at the highest legal rate that the City is authorized to collect on special assessments.

## **624 Landscaping and Screening Standards**

### Purpose:

The Landscaping and Screening Regulations provide additional guidance on the development of sites within Madison by addressing landscaping and screening requirements. They are designed to improve the appearance of the community; buffer potentially incompatible land uses from one another; and conserve the value of properties within the City of Madison.

### Applicability:

The provisions of this section shall apply to all new development on each lot or site upon application for a building permit, except for the following:

1. Reconstruction or replacement of a lawfully existing use or structure following a casualty loss.
2. Remodeling, rehabilitation, or improvements to existing uses or structures which do not substantially change the location of structures, parking, or other site improvements.
3. Additions or enlargements of existing uses or structures which increase floor area or impervious coverage area by less than 20 percent. Where such additions or enlargements are 20 percent or greater, these provisions shall apply only to that portion where the new development occurs.
4. Agricultural Buildings, structures and uses.

### Landscaping Requirements:

Landscaping shall be required adjacent to each street property line and within front yards as shown in Table 6-8.

### Landscaping Materials and Installation Standards:

1. **Restricted List of Plant Materials:** No plant material on the Restricted List of Plant Material shall be used to fulfill landscape requirements. This list is provided through the office of Weed Control. These plants are restricted from use because of disease, maintenance, or suitability.
2. **Use of Inorganic Landscaping Materials:** No artificial trees, shrubs, plants or turf shall be used to fulfill the minimum requirements for landscaping. Inorganic materials, such as stone or decorative pavers, may be used provided that such material does not comprise more than 35% of the minimum required landscaped area. Other concrete and/or asphalt pavement surfaces may not be used within the minimum required landscaped area, except for walkways less than 5 feet in width.

**Table 6-8: Required Landscape Depth**

Zoning District	Depth of Landscaping Adjacent to Street Property Line
<b>AG – Agricultural</b>	35 feet
<b>RT – Residential Transition</b>	35 feet
<b>R1 – Single Family Residential</b>	NA
<b>R2 – Medium Density Residential</b>	20 feet
<b>R3 – Multiple Family Residential</b>	15 feet
<b>MH – Mobile Home</b>	35 feet
<b>C1 – Light Commercial</b>	15 feet
<b>C2 – Central Business District</b>	No requirement
<b>C3 – Highway Services</b>	10 feet
<b>I – Industrial</b>	10 feet

Buffer Provisions:

These provisions apply when use is established in a more intensive zoning district (District A) which is adjacent to a less intensive zoning district (District B). The owner, developer, or operator of the use within District A shall install and maintain a landscaped buffer on his/her lot or site, as set forth in this section. Buffer requirements apply only to those districts indicated in Table 8-2. Buffers are not required of single-family, 2-family, duplex, or townhouse use types in the more intensive zoning district.

1. The buffer dimensions set forth in Table 6-9 apply to zoning districts which share a common lot line or are adjacent but separated by an intervening alley.

**Table 6-9: Buffer Requirements (in feet)**

	District B (Less Intensive Adjacent District)				
District A (More Intensive District) Note 3	AG (Note 1)	RT (Note 1)	R-1 (Note 1)	R-2 (Note 1)	MH (Note 1)
AG, TA		Note 2	Note 2	Note 2	Note 2
R-2	10	10	10 + 5 feet for each story over one	---	10
C1	20	20	20	15	20
C3	20	20	20	15	20
I	30	30	30	30	30

**Notes to Table 6-9:**

- Note 1:** Applies to residential and civic uses previously established in the zoning district.
- Note 2:** May be subject to screening requirements only as set forth in Section 624.
- Note 3:** Buffer requirements do not apply to single-family, duplex, or townhouse residential uses established in District A

2. When a street separates adjacent zoning districts requiring a buffer, the size of the buffer shall be one-half the required buffer set forth in Table 6-9.
3. Each required buffer must be entirely landscaped and free of paved areas, access ways, storage, or other disturbances.

## Screening Standards:

### 1. Application

Screening is required between adjacent zoning districts indicated in Table 6-9 when one or more of the following conditions in the more intensive zoning district is directly visible from and faces toward the boundary of the less intensive zoning district.

- a. The rear elevation of buildings.
- b. Outdoor storage areas or storage tanks, unless otherwise screened.
- c. Loading docks, refuse collection points, and other service areas.
- d. Major machinery or areas housing a manufacturing process.
- e. Major on-site traffic circulation areas or truck and/or trailer parking.
- f. Sources of glare, noise, or other environmental effects.
- g. Any use in an AG or TA District involving a business, service, or process not completely enclosed in a structure that abuts or is located across a street or alley from a residential or civic use in an TA, R-1, R-2, or MH District.

### 2. Opaque Barrier

A six foot opaque barrier shall be provided which visually screens the conditions listed in Section 806 (a) from less intensive uses as follows:

- a. A solid wood and/or masonry fence or wall at least six 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 feet within three years of planting.
- c. A landscaped earth berm with a maximum slope of three to one, rising no less than six 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 feet.

### 3. Location of Screening Wall

- a. A screening wall or fence shall be installed no closer to the less intensive zoning district than one-half the width of the required buffer.

### 4. Screening: Effect on Drainage

Screening shall not adversely affect surface water drainage.

### 5. Permitted Interruptions of Screening

Screening may be interrupted to provide access drives to service areas or for loading purposes to buildings. Such breaks or interruptions shall not exceed 20% of the length of the required screened area.

## Tree Plantings:

In any landscaped area required by the Minimum Depth Requirements, the Buffer Requirements, or the Parking Lot Interior Landscaping Requirements, one tree of an approved species with a minimum caliper size of two inches shall be planted and maintained for each 500 square feet of required landscaped area. Existing trees approved for preservation shall be counted toward satisfaction of this requirement.

General Provisions:

1. Time of Application:

The provisions contained in this Article shall be applied for each individual lot or site when an application for a building permit on such lot is made.

2. Maintenance of Required Landscaping:

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 Article.

3. Obstruction of View:

Landscaping or screening installed in any landscaped area shall not obstruct the view from or to any driveway approach, street, alley, or sidewalk.

4. Earth Berm Locations:

All earth berm locations shall be reviewed by the Public Works Director, or his/her designee to determine how the berms shall relate to drainage and public utilities.

5. Exceptions:

A development may continue to comply with the buffer and screening requirements in effect at the time of issuance of its original permit, regardless of whether an adjacent lot or site is subsequently rezoned to a less intensive district which would otherwise require compliance with buffer or screening provisions.

## 625 Residential and Small Wind Energy Systems

Purpose:

It is the purpose of this ordinance to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity and that such systems are appropriately sited within Madison's zoning jurisdiction.

Definitions:

The following are defined for the specific use of this section. Additional definitions pertaining to wind energy systems are found in Section 8.16.02 herein.

1. **Building-Mounted Wind Turbine (BMWT):** a wind energy conversion system consisting of a wind turbine mounting system and associated control or conversion electronics and which is mounted to a building and intended to primarily reduce on-site consumption of utility power.
2. **Decibel (db):** The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level often set as 0 dbA. In general, this means the quietest sound we can hear is near 0 dbA and the loudest we can hear without pain is near 120 dbA. Most sounds in the typical day-to-day environment range from 30 dbA to 100 dbA. Normal speech at 3 feet averages about 65 dbA.
3. **FAA:** Federal Aviation Administration.
4. **Micro-Wind Energy Conversion System** shall mean a Wind Energy Conversion System of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.

5. **Residential Wind Energy Conversion System (RWECS):** a wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, and which is intended to primarily reduce on-site consumption of utility power. A system is considered a residential wind energy system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.
6. **Small Wind Energy Conversion System (SWECS):** a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, and which will be used primarily to reduce on-site consumption of utility power. Such system has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
7. **Total Height** shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.
8. **Tower Height** shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

Requirements for Residential Wind Energy Conversion System (RWECS):

Residential wind energy systems shall be permitted as a conditional use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met. See Section 8.16.07 for regulations on building mounted wind turbines.

1. Wind energy towers shall to the extent possible blend into the surrounding environment and architecture, including painting to reduce visual obtrusiveness. The City Planner may require a photo of an RWECS system of the same model that is the subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).
2. RWECS shall not be artificially lighted unless required by the FAA or another appropriate authority.
3. No tower should have any sign, writing, or picture that may be construed as advertising.
4. RWECS shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
5. An RWECS shall be located on a parcel that is at least one-half (1/2) acre in size.
6. The applicant shall provide information demonstrating that the system will be used primarily to off-set on-site consumption of electricity. No residential wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
7. The minimum distance between the ground and any protruding blades utilized on an RWECS shall be 20 feet, as measured at the lowest point on the arc of the rotor. The supporting tower shall also be enclosed with a six foot tall fence or the base of the tower shall not be climbable for a distance of 12 feet.
8. Compliance with FAA regulations: An RWECS must comply with applicable regulations of the Federal Aviation Administration, including any necessary approvals for installations close to airports.
9. Compliance with the International Building Code: Building permit applications for an RWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower base, and footings. An engineering analysis of the tower showing compliance with the International Building Code and certified by a professional engineer licensed in the State of Nebraska shall also be submitted.
10. Compliance with National Electric Code: Building permit applications for an RWECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code. This information may be supplied by the manufacturer.
11. Setbacks
  - a. See Section 8.16.05 for setbacks.
  - b. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site
12. Tower Height
 

The applicant shall provide evidence that the proposed height of the RWECS does not exceed the height recommended by the manufacturer or distributor of the system.

  - a. The maximum tower height is 80, unless a greater restriction is imposed by FAA regulations.

### Requirements for Small Wind Energy Conversion System (SWECS):

Small wind energy systems shall be permitted as a conditional use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met. See Section 8.16.07 for regulations on building mounted wind turbines.

1. Small wind energy towers shall maintain a galvanized steel finish, unless FAA standards require otherwise, or if the owner is attempting to match the finish on the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. The City Planner may require a photo of an SWECS system of the same model that is the subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).
2. SWECS shall not be artificially lighted unless required by the FAA or another appropriate authority.
3. No tower should have any sign, writing, or picture that may be construed as advertising.
4. SWECS shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
5. An SWECS shall be located on a parcel that is at least three (3) acres in size.
6. The applicant shall provide information demonstrating that the system will be used primarily to off-set on-site consumption of electricity. No residential wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
7. The minimum distance between the ground and any protruding blades utilized on an SWECS shall be 20 feet, as measured at the lowest point on the arc of the rotor. The supporting tower shall also be enclosed with a six foot tall fence or the base of the tower shall not be climbable for a distance of 12 feet.
8. Compliance with FAA regulations: An SWECS must comply with applicable regulations of the Federal Aviation Administration, including any necessary approvals for installations close to airports.
9. Compliance with the International Building Code: Building permit applications for an SWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower base, and footings. An engineering analysis of the tower showing compliance with the International Building Code and certified by a professional engineer licensed in the State of Nebraska shall also be submitted.
10. Compliance with National Electric Code: Building permit applications for an SWECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code. This information may be supplied by the manufacturer.
11. Setbacks
  - a. See Section 8.16.05 for setbacks.
  - b. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.
12. Tower Height

The applicant shall provide evidence that the proposed height of the SWECS does not exceed the height recommended by the manufacturer or distributor of the system.

  - a. The maximum tower height is 120, unless a greater restriction is imposed by FAA regulations.

### Compliance:

Compliance of small wind energy systems will be reviewed on a complaint basis. Documentation of the nuisance complaint is not the responsibility of the city.

## **626 Commercial/Utility Grade Wind Energy Systems**

### Purpose:

It is the purpose of this ordinance to promote the safe, effective and efficient use of commercial/utility grade wind energy systems and that such systems are appropriately sited within the zoning jurisdiction of the City of Madison.

### Definitions:

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

**A-weighted Sound Level (dba):** a measurement of sound pressure level, which has been filtered or weighted to progressively de-emphasize the importance of frequency components below 1,000 Hz and above 5,000 Hz. This reflects the fact that human hearing is less sensitive at low frequencies and at extremely high frequencies, relative to the mid-range of the frequency spectrum. This area of sensitivity also corresponds to the human speech band. This measurement is the most commonly used filter in both industrial noise applications (governed by OSHA) and community noise regulations.

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

**Applicant:** A property owner, or any person or entity acting as an agent for the property owner, in an application for a WECS Permit under this Article.

**Blade Glint:** The intermittent reflection of the sun off the gloss surface of wind turbine blades.

**Building-Mounted Wind Turbine (BMWT):** a wind energy conversion system consisting of a wind turbine mounting system and associated control or conversion electronics and which is mounted to a building and intended to primarily reduce on-site consumption of utility power.

**Commercial Wind Energy Conversion System (CWECS):** an electrical generating facility comprised of one or more wind turbines and accessory facilities generating capacity, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy generated will be used by a utility company for off-site use. A wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.

**Decibel (db):** The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level often set as 0 dbA. In general, this means the quietest sound we can hear is near 0 dbA and the loudest we can hear without pain is near 120 dbA. Most sounds in the typical day-to-day environment range from 30 dbA to 100 dbA. Normal speech at 3 feet averages about 65 dbA.

**FAA:** Federal Aviation Administration.

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

**FCC:** Federal Communications Commission.

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

**Furling:** A design characteristic of a wind turbine intended to limit its power output in high winds by changing the rotor's plane of rotation to a plane that is not perpendicular to the prevailing wind direction.

**Hub Height:** the distance measured from ground level to the centerline of the rotor.

**Ice Throw:** Ice build-up that is thrown by the spinning turbine blades.

**Meteorological Tower** shall mean, for purposes of this ordinance, a tower, including the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.

**Micro-Wind Energy Conversion System** shall mean a Wind Energy Conversion System of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.

**Nacelle:** A cover housing that holds all of the generating components of a WECS, such as the gearbox, drive train, rotor shaft, and brake assembly.

**Operator:** The person or entity responsible for the day-to-day operation and maintenance of the WECS.

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

**Pure Tone:** A sound whose instantaneous sound pressure is a simple sinusoidal function of the time and is characterized by a single frequency or singleness of pitch. For the purpose of these regulations, a pure tone shall exist if the one-third octave band sound pressure level in the bandwidth of the tone exceeds the arithmetic average of the sound pressure levels on the two contiguous one-third octave bands by five db for center frequencies of 500 Hz and above, and eight db for center frequencies between 160 and 400 Hz, and by 15 db for center frequencies less than or equal to 125 Hz.

**Residential Wind Energy Conversion System (RWECS):** a wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, and which is intended to primarily reduce on-site consumption of utility power. A system is considered a residential wind energy system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.

**Rotor:** The rotating part of a turbine, including the blades.

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

**Sensitive Receptor:** Structures that have occupants on a routine basis and whose occupants could be negatively affected by noise, vibration, shadow, or flicker, including those structures intended for four season human habitation (whether inhabited or not), public parks, state designated wildlife areas, the manicured areas of private recreational establishments such as golf courses or the campsites in a state approved campground, schools, daycare centers, elderly care facilities, hospitals, places of public assembly, and businesses.

**Shadow Flicker:** When the blades of an operating wind turbine pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his or her immediate environment.

**Small Wind Energy Conversion System (SWECS):** a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, and which will be used primarily to reduce on-site consumption of utility power. Such system has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

**Stall Control:** A braking mechanism on wind turbines where the rotor blades are bolted onto the hub at a fixed angle. The rotor blade profile is aerodynamically designed to ensure that the moment the wind speed becomes too high it creates turbulence on the side of the rotor blade which is not facing the wind. This stall prevents the lifting force of the rotor blade from acting on the rotor.

**Substations** shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35,000 KV) for interconnection with high voltage transmission lines.

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

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

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

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

**Turbine, or Wind Turbine:** see “Wind Energy Conversion System.”

**Upwind Rotor:** A design in which the rotor on a wind turbine tower faces into the wind.

**Well-designed Braking System:** The primary braking system, which uses a mechanical brake, pitch-control of the turbine blades, or stall-control to bring the turbine to a stop in such a way that stall-induced vibrations/noise are avoided.

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

**Wind Energy Conversion System (WECS) Facility:** An electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

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

Requirements:

Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within any district where the use is listed and allowed. The following requirements and information shall be met and supplied:

1. The name(s) of project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
5. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
6. Engineer’s certification from a professional engineer licensed in the State of Nebraska.
7. Documentation of land ownership or legal control of the property.

8. The latitude and longitude of individual wind turbines.
9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed CWECS not owned by the applicant.
10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed CWECS.
11. An Acoustical Analysis that certifies that the noise requirements within these regulations can be met.
12. FAA and FCC permit, if necessary. Applicant shall submit permit or evidence that the permit has been filed with the appropriate agency.
13. Location of all known Communication Towers within two miles of the proposed Wind Energy Conversion System and evidence that there will be no interference with any such commercial and/or public safety communications towers.
14. Decommissioning Plan as required by this ordinance.
15. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties.
16. A CWECS shall be located on a parcel that is at least ten (10) acres in size.
17. Setbacks identified as required in Section 8.16.05.

Aggregated Projects:

1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.

Setbacks:

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

	Wind Turbine – Non Commercial WECS (residential & small)	Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines	1.1 times the total height or in an Agricultural or Transitional Agricultural Districts only. In other districts, the setback shall be the distance of the fall zone, as certified by a professional engineer, + 10 feet	1.25 times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height.
Neighboring Dwelling Units*		750 feet	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height.
Road Rights-of-Way**	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	One times the height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Other Rights-of-Way	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Public conservation lands	NA	1320 feet	600 feet
Wetlands, USFW Types III, IV, and V	NA	1320 feet	600 feet
Other structures	NA	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Other existing WECS	NA	To be considered based on: <ul style="list-style-type: none"> <li>• Relative size of the existing and proposed WECS</li> <li>• Alignment of the WECS relative to the predominant winds</li> <li>• Topography</li> <li>• Extent of wake interference impacts on existing WECS</li> </ul>	

		<ul style="list-style-type: none"> <li>• Property line setback of existing WECS</li> <li>• Other setbacks required</li> </ul> Waived for internal setbacks in multiple turbine projects including aggregated projects	
River Bluffs	NA	1,320 feet	NA

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

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

Special Safety and Design Standards:

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

1. Clearance of rotor blades or airfoils must maintain a minimum of 20 feet of clearance between their lowest point and the ground.
2. All CWECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
3. All wind turbines, which are a part of a CWECS, shall be installed with a tubular, monopole type tower.
4. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
5. The design of the nacelles of turbines and towers shall not use designs or construction methods that provide perches for avian predators.
6. Turbine identification:
  - a. Each site access road shall be named according to the City street (or county road) naming convention;
  - b. Each individual turbine shall be designated with a numeric or alphanumeric identifier;
  - c. Each individual turbine shall be labeled with its respective identifier and the name of the access road it is located along; and
  - d. Signage shall be provided at the intersection of each access road with the public right-of-way indicating the towers that may be found along that access road, along with subsequent signage at each road intersection within the site further indicating the direction to specific towers.
7. Wind turbines that are not designed in “accordance with proven good engineering practices” shall be prohibited. Turbines designed with the following characteristics shall be deemed in “accordance with proven good engineering practices:”
  - a. at least 3 blades;
  - b. upwind rotor;
  - c. no furling;
  - d. tapered and twisted blades; and
  - e. a well-designed braking system.
8. Color and finish:
  - a. All wind turbines and towers that are part of a CWECS shall be white, grey or another non-obtrusive single color.
  - b. Blades may be black in order to facilitate deicing.
  - c. Finishes shall be matte or non-reflective.
  - d. CWECS shall not display advertising, except for reasonable identification of the manufacturer, facility owner or operator, which may be placed on the nacelle.
9. Visual Impact
  - a. To provide visual order to a WECS facility, all individual turbines shall have the same number of rotor blades and all rotor blades shall spin in the same direction (i.e., clockwise or counter-clockwise) in relation to the wind.
  - b. To promote visual uniformity, all turbines at a similar ground elevation shall have the same height from blade tip to the ground.
  - c. Distinct groupings or clusters of wind turbines shall be limited to no more than 12 machines per cluster. A cluster shall be defined as a grouping of machines that are greater than 1,320 feet (¼ mile) from another grouping.

- d. In light wind conditions, turbine rotor blades shall not be kept in a locked position except as necessary to meet operational or maintenance requirements;
  - e. Except during construction, re-construction or removal, outdoor storage is not permitted within the facility boundary except at locations that are screened from view, as shown on the approved site plan;
  - f. If turbines become inoperable for any reason, they shall be repaired as soon as reasonably possible;
  - g. To avoid cluttering the skyline, inverters and pendant power cables shall be located inside the wind turbine tower, nacelle or structure;
  - h. No telecommunications dishes, antennas, cellular telephone repeaters or other similar devices shall be attached to wind turbine towers;
  - i. The maximum total height of the turbines shall be 355 feet. Greater height, but not in excess of 400 feet, may be considered on a case by case basis if the applicant can sufficiently demonstrate that the increased height will result in increased energy efficiencies thereby reducing the overall number of turbines in the project. However, in all cases, due consideration shall be given to the scale of the turbines in relation to the surrounding landscape.
10. Lighting:
- a. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations.
  - b. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds.
  - c. Red pulsating incandescent lights shall be prohibited.
11. All signage shall comply with the sign regulations found in these regulations.
12. All communications and feeder lines installed as part of a CW ECS shall be buried, where feasible.
13. No CW ECS shall exceed 50 dbA at the nearest structure or use occupied by humans.
14. Controls and brakes:
- a. All WECS shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode.
  - b. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
15. Interference.
- a. The applicant shall minimize or mitigate interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any CW ECS.
  - b. The applicant shall notify all communication tower operators within five miles of the proposed CW ECS location upon application to the City for permits.
16. Roads, applicant shall:
- a. Identify all city, county or townships streets/roads to be used for the purposes of transporting CW ECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the CW ECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
  - b. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road/facility.
  - c. Be responsible for restoring or paying damages as agreed to by the applicable jurisdiction sufficient to restore the road(s) and bridges to preconstruction conditions.
17. The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the CW ECS.
18. Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

**Building-Mountable Wind Turbines (BMWT):**

A BMWT and its essential support facilities shall be allowed as a permitted accessory use when attached to the principle structure in any zoning district subject to the following:

- 1. A simple site plan shall be submitted for each BMWT providing the following information:
- 2. Mounting location of the BMWT on the principle structure.

3. Description of the BMWT height and width, including a photo (if available) or other visual representation.
4. BMWT shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
5. BMWT shall comply with the maximum height requirement of the zoning district in which it is located. Applicants proposing an installation higher than allowed by the zoning district in which it will be located may apply for a variance to the Zoning Board of Adjustment.
6. No BMWT may occupy, encroach or “overhang” any public right-of-way without the expressed approval of the City of Madison.
7. Each BMWT installation shall require a separate building permit.

Noise and Shadow Flicker:

1. Audible sound from a WECS facility shall not exceed 50 dbA if it is determined a pure tone is generated by the facility, as measured at the exterior of any occupied building on a non-participating landowner's property. Methods for measuring and reporting acoustic emissions from the WECS facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 (1989) titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*.
2. The Facility owner and Operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.

Use of Public Roads; Bond Required:

The property owner of a CWECS facility shall be responsible for extraordinary maintenance and restoration of all City roads leading to the project site that may be damaged during construction or due to activities involving the CWECS facility unless the property owner can prove that operation of the CWECS facility was not the cause of the roadway damage. All maintenance and restoration of roads shall be done with the approval of and to the satisfaction of the Public Works Director. The following information shall be submitted along with an application for a CWECS Permit:

1. Detailed maps of access and haul routes;
2. If weight and size permits are required by the Nebraska Department of Roads, a pre-construction baseline survey shall be provided to document and determine existing road conditions;
3. A report on potential road damage that may result from the construction and maintenance of the CWECS facility;
4. If, in the discretion of the Public Works Department, road damage may occur, a road damage mitigation plan and/or long-term road maintenance agreement shall be submitted, which shall include a bond, escrow, security agreement, or other form of guarantee approved by the City Attorney, in an amount determined by the Public Works Director to be sufficient to guarantee the necessary restoration or extraordinary maintenance required due to the construction or operation of the CWECS facility; and
5. If impacts may occur to public roads in other jurisdictions, the Applicant shall give notice to such other jurisdictions, providing information regarding road impacts, and submit to the Public Works Department proof that such notice was given.

Decommissioning Plan; Bond Required:

1. The facility owner and operator shall, at its expense, complete decommissioning of the CWECS facility, or individual turbines, within six months after the end of the useful life of the facility or individual turbines. The CWECS facility or individual turbines will presume to be at the end of their useful life if no electricity is generated for a continuous period of 12 months. A decommissioning plan shall be submitted with an application for a CWECS permit, which shall document:
  - a. The removal of turbines, buildings, cabling, electrical components, roads, foundations to a depth of four feet within 180 days;
  - b. Grading and re-seeding all disturbed earth;
  - c. A report prepared by an independent professional engineer licensed in the State of Nebraska that estimates the total cost of decommissioning ("Decommissioning Costs") without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net

Decommissioning Costs"). Said estimates shall be submitted to the City of Madison after the first year of operation and every fifth year thereafter.

- d. The facility owner or operator shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs, provided, at no point shall Decommissioning Funds be less than 25 percent of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained as a bond, escrow, security agreement, or other form of guarantee approved by the City Attorney.
  - e. If the facility owner or operator fails to complete decommissioning within the period prescribed herein, then the landowner shall have six months to complete decommissioning.
  - f. If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed herein, then the City of Madison may take such measures as necessary to complete decommissioning.
  - g. An easement allowing the City of Madison access to the project site, pursuant to reasonable notice, to effect or complete decommissioning.
  - h. The escrow agent shall release the Decommissioning Funds when the facility owner or operator has demonstrated and the City of Madison concurs that decommissioning has been satisfactorily completed, or upon written approval of the City of Madison in order to implement the decommissioning plan.
  - i. An agreement that the City of Madison is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the right to seek reimbursement from the facility owner or operator, or property owner, for decommissioning costs in excess of the amount guaranteed, and to file a lien against any real estate owned by the facility owner or operator, or property owner, or in which they have an interest, for the amount of the excess, and to take all steps allowed to enforce such lien.
2. Financial provisions shall not be so onerous as to render CWECS facilities unfeasible in the City of Madison.

Repair; Abandonment; Removal:

Small Wind Energy Conversion Systems: Any SWECS found to be unsafe by the Building Official shall be repaired by the owner to meet federal, state and local safety standards, or removed within six months. If any SWECS is not operated for a continuous period of 12 months, the City shall notify the landowner by registered mail that such SWECS is deemed abandoned, and provide 45 days for a response. In their response, the landowner shall set forth reasons for the operational difficulty and provide a timetable for corrective action not exceeding six months. If the corrective action is not completed within six months, the City shall notify the landowner that such SWECS shall be removed within 12 days of receipt of the notice.

Liability Insurance:

For each CWECS facility, there shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. Copies of such certificates shall be made available to the City of Madison upon request.

**627 Adult Establishments**

Purpose and Intent:

It is the purpose of this section to regulate Adult Establishments to promote the health, safety, morals and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of Adult Establishments within the city's jurisdiction. The provisions of these regulations have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of these regulations to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of these regulations to condone or legitimize the distribution of obscene material.

## Findings and Rationale:

Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the city, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and

*Farkas v. Miller*, 151 F.3d 900 (8th Cir. 1998); *Jakes, Ltd. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *Scope Pictures v. City of Kansas City*, 140 F.3d 1201 (8th Cir. 1998); *ILQ Invs. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *City of Lincoln v. ABC Books, Inc.*, 470 N.W.2d 760 (Neb. 1991); *Xiong v. City of Moorhead*, 2009 WL 322217 (D. Minn. Feb. 2, 2009); *Entm't Prods., Inc. v. Shelby County*, 721 F.3d 729 (6th Cir. 2013); *Lund v. City of Fall River*, 714 F.3d 65 (1st Cir. 2013); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); *Plaza Group Properties, LLC v. Spencer County Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *DCR, Inc. v. Pierce County*, 964 P.2d 380 (Wash. Ct. App. 1998); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); *Major Liquors, Inc. v. City of Omaha*, 188 Neb. 628 (1972); *DLH Inc. v. Nebraska Liquor Control Commission*, 266 Neb. 361(2003); *Village of Winslow v Sheets*, 261 Neb.203 (2001),

and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," *Journal of Urban Health* (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analysis," *Crime & Delinquency* (2012) (Louisville, KY); *Metropolis, Illinois – 2011-12*; *Manatee County, Florida – 2007*; *Hillsborough County, Florida – 2006*; *Clarksville, Indiana – 2009*; *El Paso, Texas – 2008*; *Memphis, Tennessee – 2006*; *New Albany, Indiana – 2009*; *Louisville, Kentucky – 2004*; *Fulton County, GA – 2001*; *Chattanooga, Tennessee – 1999-2003*; *Jackson County, Missouri – 2008*; *Ft. Worth, Texas – 2004*; *Kennedale, Texas – 2005*; *Greensboro, North Carolina – 2003*; *Dallas, Texas – 1997*; *Houston, Texas – 1997, 1983*; *Phoenix, Arizona – 1995-98, 1979*; *Tucson, Arizona – 1990*; *Spokane, Washington – 2001*; *St. Cloud, Minnesota – 1994*; *Austin, Texas – 1986*; *Indianapolis, Indiana – 1984*; *Garden Grove, California – 1991*; *Los Angeles, California – 1977*; *Whittier, California – 1978*; *Oklahoma City, Oklahoma – 1986*; *New York, New York Times Square – 1994*; the Report of the Attorney General's Working Group On The Regulation Of Adult establishments, (June 6, 1989, State of Minnesota); *Dallas, Texas – 2007*; "Rural Hotspots:

The Case of Adult Businesses,” 19 Criminal Justice Policy Review 153 (2008); “Stripclubs According to Strippers: Exposing Workplace Sexual Violence,” by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; “Adult establishments: An Insider’s View,” by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Sex Store Statistics and Articles; and Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA), McCleary and Weinstein; Do “Off-Site Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory and Empirical Evidence, Law and Policy, Vol. 31, No. 2 (April 2009), Adult Business Study: Town and Village of Ellicottville, Cattaraugus County, New York (January 1998), the city finds:

1. Adult Establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
2. Adult Establishments should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult establishments, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult establishments in one area.
3. Each of the foregoing negative secondary effects constitutes a harm which the city has a substantial government interest in preventing and/or abating. Additionally, the city’s interest in regulating Adult Establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the city. The city finds that the cases and documentation relied on in this resolution are reasonably believed to be relevant to said secondary effects.

The city hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

Definitions:

As used in this section, the following terms shall have the meanings indicated:

**Adult Arcade:** shall mean a commercial establishment to which the public is permitted or invited that maintains booths or rooms smaller than 100 square feet, wherein image-producing devices are regularly maintained, where a fee is charged to access the booths or rooms, and where minors are excluded from the booths or rooms by reason of age.

**Adult Bookstore:** shall mean a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas.” A “principal business activity” exists where the commercial establishment meets any one or more of the following criteria:

1. At least 35% of the establishment’s displayed merchandise consists of said items, or
2. At least 35% of the establishment’s revenues derive from the sale or rental, for any form of consideration, of said items, or
3. The establishment maintains at least 35% of its floor area for the display, sale, and/or rental of said items; or
4. The establishment maintains at least seven hundred fifty square feet (750 sq. ft.) of its floor area for the display, sale, and/or rental of said items.

**Adult Establishment:** shall mean an “adult arcade,” an “adult bookstore,” an “adult motion picture theater,” a “semi-nude lounge,” or a “sex paraphernalia store.”

**Adult Motion Picture Theater:** shall mean a commercial establishment to which the public is permitted or invited that maintains viewing rooms that are 100 square feet or larger wherein films or videos characterized by their emphasis upon “specified sexual activities” or “specified anatomical areas” are regularly shown.

**Characterized By:** shall mean describing the essential character or quality of an item. As applied to adult establishments, no business shall be classified as an adult establishment by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

**Employee of an Adult Establishment:** shall mean any person who works on the premises of an adult establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

**Nudity or Nude Conduct:** shall mean the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

**Operator of Adult Establishment:** shall mean any person on the premises of an adult establishment who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner or part owner, of the business.

**Semi-Nude or Semi-Nudity:** shall mean the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

**Semi-Nude Lounge:** shall mean a nightclub, juice bar, restaurant, bottle club, massage parlor, or similar commercial establishment that regularly offers live semi-nude conduct. No establishment shall avoid classification as a semi-nude lounge by offering nude conduct.

**Sexual Device:** shall mean any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

**Sex Paraphernalia Store:** shall mean a commercial establishment where more than 100 sexual devices are regularly made available for sale or rental. This definition shall not be construed to include any establishment located within an enclosed regional shopping mall or any establishment primarily dedicated to providing medical products.

**Specified Anatomical Areas:** shall mean less than completely and opaquely covered human genitals, pubic region, buttock, and/or female breast below a point immediately above the top of the areola.

**Specified Sexual Activities:** shall mean intercourse, oral copulation, masturbation or sodomy.

**Viewing Room:** shall mean the room or booth where a patron of an adult establishment would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video on an image-producing device.

Regulations:

1. No person shall establish, operate, or cause to be operated an adult establishment in Madison's jurisdiction within:
  - a. 1,000 feet of another adult establishment;
  - b. 500 feet of a business licensed to sell alcohol at the premises; or
  - c. 1,000 feet of a residential district, residential use, residence, church, educational institution, park, or recreational facility.
  - d. For the purpose of this section, 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 business licensed to sell alcohol at the premises, a residential district, a residential use, a residence, a church, an educational institution, park, or a recreational facility.
2. No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.
3. No patron, employee of an adult establishment, or any other person shall knowingly or intentionally, in an adult establishment, appear in a state of nudity or engage in a specified sexual activity.
4. No person shall knowingly or intentionally, in an adult establishment, appear in a semi-nude condition unless the person is an employee of an adult establishment who, while semi-nude, remains at least six (6) feet from all patrons and on a stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.
5. No employee of an adult establishment who appears semi-nude in an adult establishment shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult establishment. No customer shall knowingly or intentionally touch such an employee of an adult establishment or the clothing of such an employee of an adult establishment on the premises of an adult establishment.
6. No person shall possess alcoholic beverages on the premises of an adult establishment.
7. No person shall knowingly or recklessly allow a person under the age of eighteen (18) years to be or remain on the premises of an adult establishment.
8. No operator of an adult establishment shall knowingly or recklessly allow a room in the adult establishment to be simultaneously occupied by any patron and any other employee of an adult establishment who is semi-nude or who appears semi-nude on the premises of the adult establishment, unless an operator of the adult establishment is present in the same room.
9. A person who operates or causes to be operated an adult establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
  - a. The operator of the adult establishment shall, within one week of opening the adult establishment for business, submit to the City Zoning Officer a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches.
  - b. It shall be the duty of the operator of the adult establishment, and of any employees of the adult establishment present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
  - c. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
  - d. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.

- e. It shall be the duty of the operator of an adult establishment to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
  - i. That the occupancy of viewing rooms less than 150 square feet is limited to one person.
  - ii. That specified sexual activity on the premises is prohibited.
  - iii. That the making of openings between viewing rooms is prohibited.
  - iv. That violators will be required to leave the premises.
  - v. That violations of these regulations are unlawful.
- f. It shall be the duty of the operator of an adult establishment to enforce the regulations articulated in e.i. though e.v. above.
- g. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator of the adult establishment's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator of an adult establishment to ensure that at least one employee of an adult establishment is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator of an adult establishment, and it shall also be the duty of any employees of an adult establishment present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- h. It shall be the duty of the operator of an adult establishment to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
- i. It shall be unlawful for a person having a duty under subsections 9.a. through 9.h above to knowingly or recklessly fail to fulfill that duty.
- j. No patron shall knowingly or recklessly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.
- k. No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.
  - l. No person shall knowingly or recklessly make any hole or opening between viewing rooms.
- 10. It shall be the duty of the operator of an adult establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
- 11. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state shall be sufficient to establish a violation of a provision of this section 8.17.03.

## **628 Solar Panels**

No solar panel shall be constructed within the residential zoning jurisdiction of the City of Madison unless a permit therefore is approved and issued by the building inspector and is constructed in conformance with the following requirements. For those devices that include electrical, plumbing and heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the following requirements.

### Lot and Height Requirements:

Solar panels shall conform to the required front, side, street side, and rear lot setback requirements except as provided herein:

1. A solar panel which is attached to an integral part of the principal building may project three feet into the front yard and street side yard; six feet into the rear yard; and two feet into the side yard.
2. A solar panel which is freestanding may be located only in the required rear yard provided it does not exceed six feet in height and is located not less than five feet from the rear lot line and not closer than one foot to any existing easement as measured from the closest point of the structure including its foundation and anchorage's, nor shall the solar panel be located in the required side yard, front yard or street side yard.

Structural Requirements:

The physical structure and connections to existing structures shall conform to the applicable Madison building codes.

Plot Plan:

The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.

Permit Fee:

A permit fee is required. This permit fee shall be paid prior to the issuance of the building permit. The amount of the fee shall be as established in the Master Fee Schedule.

Pre-existing Solar Panels:

Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to January 1, 2015, pursuant to a valid building permit issued by the City, may continue to be utilized so long as it is maintained in operational condition.



# 7

## ARTICLE SEVEN

### AUXILIARY REGULATIONS

#### **701 Planning Commission Recommendations**

Pursuant to Nebraska Revised Statutes §19-9901 (R.R.S. 1991), it shall be the purpose of the Joint Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein.

The Joint Planning 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 Joint Planning Commission.

#### **702 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 of Madison at least one (1) time ten (10) days prior to such hearing.

#### **703 Jurisdiction**

The provisions of this Ordinance shall apply within the corporate limits of the City of Madison, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of one mile (1) mile, as established on the map entitled *The Official Zoning Map of the City of Madison, Nebraska*, and may be amended by subsequent annexation.

#### **704 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 a greater percentage of yards, courts or other spaces, 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.

#### **705 Zoning Affects Every Building and Use**

No building or land shall hereafter be used 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.

#### **706 Lot**

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.

The total percentage of allowable lot coverage shall be addressed in each district. Such percentage shall exclude driveways, sidewalks, and paved patios, but shall specifically include decks.

More than one (1) principal building of a single permitted use may be located upon a lot or tract in the following instance if recommended by the Joint Planning Commission and approved by the City Council.

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

**707 Reductions in Lot Area Prohibited**

No lot, even though it may consist of one (1) 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 the Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

**708 Obstructions to Vision at Street Intersections Prohibited**

A corner lot, within the area formed by the center line of streets at a distance of ninety feet (90') from their intersections, there shall be no obstruction to vision between a height of two and one-half feet (2½') and a height of ten feet (10') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. The requirements of this section shall not be deemed to prohibit any necessary retaining well.

**709 Yard Requirements**

1. 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.
2. All accessory buildings that are attached to the principal buildings (e.g. attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
3. The Zoning Administrator may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that:
  - a. More than thirty percent (30%) of the frontage on one (1) side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance.
  - b. A minority of such structures have observed or conformed to an average setback line, and
  - c. All structures not conforming to front yard setbacks must be within one-hundred feet (100') of each other.
4. Any side or rear yard in residential district which is adjacent to any existing industrial or commercial use shall be no less than twenty-five feet (25') and shall contain landscaping and planting suitable to provide effective screening pursuant to Section 624.
5. Any yard for a commercial or industrial use in which is adjacent to any residential use or district shall be increased to forty feet (40') and shall contain landscaping and planting suitable to provide effective screening pursuant to Section 624. Included in the increased yard, a solid or semi-solid fence or wall at least six feet (6'), but not more than eight feet (8') high shall be provided adjacent to an adjoining residential district unless the adjacent residential district and industrial district are separated by a street right-of-way.

The owner or owners of the property in the Industrial District shall maintain said fence or wall in good condition. Said fencing shall be constructed of commercially available fencing.

6. No side yards are required where dwelling units are erected above commercial and industrial structures that do not require front yards.
7. Accessory buildings built prior to April 1, 2003 and inside the current side or rear yard setbacks are considered conforming and establish a new setback for the appropriate yards provided:
  - a. New setbacks are not established in a second front yard, and
  - b. Any Zoning Permit application to replace or expand said accessory building is accompanied by a statement stating the established setback is not a hardship and must be signed by the adjoining property owner(s).
  - c. Any expansion or replacement of the accessory building establishing a new setback may not exceed the accessory building maximum square footage in Article 3, Section 314, Accessory Uses, Part 6.

#### **710 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 of their designated agent that such changes will not be a detriment to the neighboring lands.

#### **711 Permitted Obstruction in Required Yards**

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

1. All Yards: Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet (4') or less than above grade which are necessary for access to a permitted building or for access to a lot from a street or alley; eaves and roof overhangs projecting thirty-six inches (36") or less; chimneys projecting twenty-four inches (24") or less into the yard; recreational and laundry drying equipment; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than eighteen inches (18") into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards.
2. Front Yards: Bay windows projecting three feet (3') or less into the yard are permitted.
3. Rear and Side Yards: Open off-street parking spaces or outside elements of central air conditioning systems.
4. Rear Yards: Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon firetowers, and the ordinary projections of chimneys and flues into the rear yard for a distance of not more than three-and-a-half feet (3½') and where the same are so placed as not to obstruct lights and ventilation.
5. Double Frontage Lots: the required front yard shall be provided on each street.
6. Building Groupings: For the purpose of the side yard regulation a group business or industrial buildings separated by a common party wall shall be considered as one (1) building occupying one (1) lot.

#### **712 Permitted Modifications of Height Regulations**

The height limitations of this Ordinance shall not apply to:

Belfries	Public Monuments	Chimneys
Ornamental Towers and Spires	Church Spires	Conveyors
Towers less than 125 feet in height	Air-Pollution Prevention Devices	Cooling Towers
Elevator Bulkheads	Silos	Smoke Stacks

Fire Towers  
Tanks

Stage Towers or Scenery Lots  
Flag Poles

Water Towers

**713 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.

**714 Anhydrous Ammonia Bulk Storage Setbacks**

New Anhydrous Ammonia Bulk Storage Tanks shall be setback five-hundred (500) feet from all residential dwellings, including downtown residential dwellings. Any residential dwelling built within five-hundred feet of an existing Anhydrous Ammonia Bulk Storage Tank shall not limit or restrict expansion of existing Anhydrous Ammonia Bulk Storage Tanks.

# 8

## ARTICLE EIGHT

### FLOODPLAIN REGULATIONS

#### 801 Purpose

An Ordinance designed to meet state and federal requirements for participation in the National Flood Insurance Program for communities identified as flood prone, but have not received detailed flood insurance study information.

#### 802 Statutory Authorization

The legislature of the State of Nebraska has in Sections 31-1001 to 31-1022, R.R.S. 1943 assigned the responsibility to local governmental units to adopt floodplain management regulations designed to protect the public health, safety, and general welfare.

#### 803 Findings of Fact

##### Flood Losses Resulting from Periodic Inundation:

The flood hazard areas of Madison, Nebraska, are subject to inundation which 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.

##### General Causes of the Flood Losses:

These flood losses are caused by:

1. The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.
2. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

#### 804 Statement of Purpose

It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 803 by applying the provisions of this Ordinance.

1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

**805 Local Administrator Responsibilities**

The Zoning Administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this Ordinance and specifically the Floodplain Regulations and all other Ordinances of the City of Madison now in force or hereafter adopted, related to zoning and subdivision regulations.

**806 Local Administrator Additional Responsibilities**

The Zoning Administrator shall be appointed to these additional responsibilities by resolution of the City Council and this appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the Zoning Administrator, the City Council shall designate an acting administrator.

**807 Designation of Current FHBM/FIRM**

The City Council of the City of Madison hereby designated to current Flood Hazard Boundary Map/Flood Insurance Rate Map dated \_\_\_\_\_, and any revisions thereto, as the official map to be used in determining those areas of special flood hazard.

**808 Permits Required**

Permits Required: No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in this Ordinance.

0. Within special flood hazard areas on the official map, separate floodplain development permits are required for all new construction, substantial improvements and other developments, including the placement of manufactured homes.
1. Application: To obtain a floodplain development permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such application shall:
  - a. Identify and describe the development to be covered by the floodplain development permit for which application is made.
  - b. Describe the land on which the proposed development is to be done by lot, block, tract, and house and street address, or similar description that will identify and definitely locate the proposed building or development.
  - c. Indicate the use or occupancy for which the proposed development is intended.
  - d. Be accompanied by plans and specifications for proposed construction.
  - e. Be signed by the permittee or authorized agent who may be required to submit evidence to indicate such authority.
  - f. Within designated floodplain areas, be accompanied by elevations of the lowest floor, including basement, or in case of floodproofed non-residential structures, the elevation to which it shall be floodproofed. Documentation or certification of such elevations will be maintained by the Zoning Administrator.
  - g. Give such other information as reasonably may be required by the Zoning Administrator (i.e., require a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of non-residential floodproofing when a minus one foot (-1') penalty is assessed at the time of rating the structure for the policy premium.)

**809 Development Permit Application Review**

The Zoning Administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal and State law.

**810 All Applications Review**

The Zoning Administrator, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) will:

1. Obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from Federal, state or other sources, until such other data is provided by the Federal insurance Administration in a Flood Insurance Study; and require within special flood hazard areas on the official map that the following performance standards be met:
  - a. That 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 100-year flood or more than one (1) foot at any location.
  - b. Residential Construction – New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot (1') above the base flood elevation.
  - c. Nonresidential construction – New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated at least one foot (1') above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of this subsection are satisfied. Such certification shall be provided to the local administrator.
  - d. Require for all new construction and substantial improvements – That fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot (1') above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. Require the use of construction materials that are resistant to flood damage.
3. Require the use of construction methods and practices that will minimize flood damage.
4. Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
5. New structures shall be constructed with electrical, heating, ventilation, plumbing, and 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.

6. Assure that all manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State laws, local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
  - a. Over-the-top ties shall be provided at each of the four corners of the manufactured home with two additional ties per side at the intermediate locations and manufactured homes less than fifty feet (50') long requiring one additional tie per side.
  - b. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than fifty feet (50') long requiring four additional ties per side.
  - c. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
  - d. Any additions to manufactured homes shall be similarly anchored.
7. Assure that all manufactured homes that are placed or substantially improved within special flood hazard areas on the community's official map on sites:
  - a. Outside of a manufactured home park or subdivision.
  - b. In a new manufactured home park or subdivision.
  - c. In an expansion to an existing manufactured home park or subdivision; or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "*substantial damage*" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot (1') above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Paragraph 6 of this section.
8. Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's official map that are not subject to the provisions of Paragraph 6 of this section. Be elevated so that either:
  - a. The lowest floor of the manufactured home is at least one foot (1') above the base flood elevation, or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent that are no less than thirty-six inches (36") in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Paragraph 6 of this section.
9. Require that recreational vehicles placed on sites within the identified special flood hazard areas on the community's official map either (i) be on the site for fewer than one-hundred-eighty (180) consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. A recreational vehicle is ready for highway use if it is on wheels or a jacking system, and is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
10. Agricultural Structures are structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

11. Accessory Structures are structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single wall design; a variance has been granted from the standard floodplain management requirements of the Ordinance; and a floodplain development permit has been issued.

### **811 Subdivision Applications**

The City Council shall review all subdivision applications and other proposed new developments (including manufactured home parks or subdivisions) and shall make findings of fact and assure that:

1. All such proposed developments are consistent with the need to minimize flood damage.
7. Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals regulatory flood elevation data in special flood hazard areas.
8. Adequate drainage is provided so as to reduce exposure to flood hazards.
9. All public utilities and facilities are located so as to minimize or eliminate flood damage.

### **812 Water and Sewer Systems**

New and replacement water and sewage systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

### **813 Storage of Material and Equipment**

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. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent floatation or if readily removable from the area within the time available after flood warning.

### **814 Flood-Carrying Capacity within any Watercourse**

The City Council will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The City Council will notify, in riverine situations, adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit copies of such notification to the Federal Emergency Management Agency. Moreover, the City Council will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Disaster Protection Act of 1973.

### **815 Variance Procedure**

1. The Board of Adjustment as established by the Madison City Council shall hear and decide appeals and requests for variances from the requirements of this ordinance/resolution.
2. 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 Zoning Administrator in the enforcement or administration of this Ordinance.
3. 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 Section 19-912, R.R.S. 1943.

4. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this Ordinance, and;
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of proposed facility and its content to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location, where applicable;
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. The compatibility of the proposed use with existing and anticipated development;
  - h. The relationship of the proposed use with existing and anticipated development;
  - i. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - j. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - l. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

**816 Conditions for Variances**

1. Generally variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 2, 3, 4, and 5 below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. 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 a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local ordinances.
5. The applicant shall be given a written notice over the signature of a community official that (i) the issuance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

**817 Conditions for Approving Variances for Agricultural Structures**

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Sections 815 and 816 of this Ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed.

1. All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.
2. Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
3. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 810 (1); 810 (2); and 810 (3) of this Ordinance.
4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Section 810 (4) of this Ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
5. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 810 (5) of this Ordinance.
6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section 810 (4) of this Ordinance.
7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Section 810 (1) of this Ordinance. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
8. Major equipment, machinery, or other contents must be protected from any flood damage.
9. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.
10. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Ordinance.
11. Wet-floodproofing construction techniques must be reviewed and approved by the community and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

## **818 Conditions for Approving Variances for Accessory Structures**

Any variance granted for an accessory structure shall be decided individually on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Section 815 of this Ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.

1. Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e. foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 810 (1); 810 (2) ; and 810 (3) of this Ordinance.
3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Section 810 (4) of this Ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 810 (5) of this Ordinance.
5. The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section 810 (1) of this Ordinance.
6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Section 810 (1) of this Ordinance. No variances may be issued for accessory structures within any designed floodway, if any increase in flood levels would result during the 100-year flood.
7. Equipment, machinery, or other contents must be protected from any flood damage.
8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
9. A community shall notify the applicant in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (ii) such construction below flood level increases to life and property. Such notifications shall be maintained with the record of all variance actions as required by this Ordinance.
10. Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

## **819 Non-Conforming Use**

A structure of the use of a structure or premises which was lawful before the passage or amendment of this ordinance, but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

1. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Ordinance. The Utility Department shall notify the Zoning Administrator in writing of instances of non-conforming uses where utility services have been discontinued for a period of 12 months.
2. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

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 percent (50%) of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State inventory of Historic Places.

#### **820 Penalties for Violation**

Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 or be sentenced up to 30 days in jail. Each day such violation continues, shall be considered a separate offense.

Nothing herein contained shall prevent the City of Madison or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **821 Abrogation and Greater Restrictions**

It is not intended by this Ordinance to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

#### **822 Interpretation**

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

#### **823 Warning and Disclaimer of Liability**

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

#### **822 Severability**

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

#### **823 Appeal**

Where a request for a permit to develop or a variance is denied by the Zoning Administrator the applicant may apply for such permit or variance directly to the Board of Appeals.

#### **824 Conflicting Ordinances**

This Ordinance shall take precedence over conflicting Ordinances or parts of Ordinances. The Madison City Council may, from time to time, amend this Ordinance to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this Ordinance are in compliance with the National Flood

## 825 Definitions

Unless specifically defined below, words or phrases used in the Floodplain Section of this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

1. Base Flood: The flood having one percent chance of being equaled or exceeded in any given year.
2. Basement: means any area of the building having its floor subgrade on all sides.
3. 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.
4. Existing Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.
5. Expansion of Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
6. Flood: A general and temporary condition of partial or complete inundation of normally dry land areas from: (i) The overflow of inland or tidal waters. (ii) The usual and rapid accumulation of runoff of surface waters from any source.
7. Flood Insurance Rate Map (FIRM): An official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium applicable to the community.
8. Floodplain: Any land area susceptible to being inundated by water from any source (see “flooding”).
9. Floodproofing: Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
10. Floodway: The channel of the 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 a designated height.
11. Historic Structure: Any structure that is: (i) Listed individually in the National Register of Historic Places ( a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (ii) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (iii) 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 (iv) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

12. **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.
13. **Manufactured Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
14. **Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
15. **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.
16. **New Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of street, 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.
17. **100-Year Flood:** The condition of flooding having one percent (1%) chance of annual occurrence.
18. **Principally Above Ground:** That at least fifty-one percent (51%) of the actual cash value of the structure is above ground.
19. **Recreational Vehicle:** A vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
20. **Regulatory Flood Elevation:** The water surface elevation of the 100-year flood.
21. **Special Flood Hazard Area:** The land in the floodplain within a community subject to one percent (1%) or greater chance of flooding in any given year.
22. **Start of Construction:** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the 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 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.
23. **Structure:** 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.
24. **Substantial Damage:** 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 percent (50%) of the market value of the structure before the damage occurred.

25. **Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before “start of construction” of the improvement. This includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alternation of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”
26. **Variance:** A grant of relief to a person from the terms of a floodplain management ordinance.
27. **Violation:** The failure of a structure or other development to be fully compliant with the community’s floodplain regulations.

# 9

## ARTICLE NINE

### NONCONFORMING DEVELOPMENT

#### **901 Purpose**

Article Eleven shall be known as the Nonconforming Development Regulations. The purposes of these regulations are:

1. To allow for reasonable use of legally created lots of record which do not meet current minimum requirements for their respective zoning districts.
2. To provide for reasonable use of legally constructed structures which do not meet current site development regulations for their respective zoning districts.
3. To allow for the reasonable continuation of legally established uses which do not meet current use regulations for their respective zoning districts.
4. To limit the continuation and provide for the gradual replacement of nonconforming uses.

#### **902 Regulations Additive**

Regulations for nonconforming uses are in addition to regulations for nonconforming structures. In the event of a conflict, the most restrictive regulation shall apply.

#### **903 Nonconforming Lots**

##### Pre-Existing Lots of Record:

Nonconforming lots of record existing at the time of the adoption of this chapter shall be exempt, unless otherwise provided, from the minimum lot area and lot width requirements of each zoning district. Such lots may be developed with any use allowed by the regulations for the district and must comply with all other site development regulations set forth by the Zoning Ordinance.

##### Reductions Due to Public Acquisition:

If a portion of a legally existing lot in any district is acquired for public use, the remainder of this lot shall be considered a conforming lot.

#### **904 Nonconforming Structures**

These regulations apply to buildings and structures which were constructed legally under regulations in effect before the effective date of this Ordinance.

1. Continuation: A lawful nonconforming structure existing on the effective date of this Title may be continued, repaired, maintained, or altered, subject to the provisions of this Section.
2. Additions or Enlargements to Nonconforming Structures:
  - a. A lawful nonconforming structure may be added to or enlarged if the addition satisfies one or more of the following conditions:
    - i. The enlargement or addition, when considered independently of the existing building, complies with all applicable setback, height, off-street parking, and landscaping requirements.
    - ii. The nonconforming building and impervious surface coverage on the site are not increased and the building, after the addition, conforms to height and off-street parking regulations applicable to its zoning district.
    - iii. The addition projects no further into a required side yard setback than the existing building; the length of the side wall of the addition is the smaller of 25 feet or 50 percent of the length of the existing nonconforming side wall; and the enlarged building complies with building and impervious coverage, front and rear yard setbacks, and height regulations applicable to its zoning district.
  - b. No permitted addition to a nonconforming structure may place a wall within ten feet of a window of an adjacent pre-existing residential structure.
  - c. Nonconforming buildings shall be limited to one addition or enlargement pursuant to these regulations.

3. Moving of Nonconforming Structures:

A lawful nonconforming building or structure shall not be moved in whole or in part to another location on its lot unless every part of the structure conforms to all site development regulations applicable to its zoning district.

4. Repair of Nonconforming Structures:

A lawful nonconforming building damaged by fire, explosion, storm or other calamity, except flood damages, may be repaired and reconstructed provided there is no increase in the degree of nonconformity. Repair and reconstruction within the designated floodplain shall be in conformance with Floodplain development regulations.

5. Conversion of a Conforming Building:

A conforming building shall not be changed in any way that will result in a nonconforming development.

6. Applicability of Landscaping and Screening Regulations:

A pre-existing structure, building, or development shall be exempt from Article Six, Section 624, Landscaping and Screening Regulations. However, any expansion of such structure, building, or development or any adjacent new development onto property that is or becomes vacant on or after the effective date of this Ordinance shall be subject to Article Six.

**905 Nonconforming Uses**

Continuation of Nonconforming Uses:

Any nonconforming use lawfully existing on the effective date of this Ordinance may continue, subject to the limitations of this Section.

Enlargement of Nonconforming Uses:

A building or structure housing a lawful nonconforming use may not be added to or enlarged.

Abandonment of Nonconforming Use:

If any structure or property used as a lawful nonconforming use becomes abandoned for a continuous period of six months, any subsequent use must conform to all use regulations applicable to the property's zoning district.

Change of Use:

A lawful nonconforming use may be changed only to a use type permitted in a zoning district that is equal to or less intensive than that normally required for the previous use.

Allowance for Repairs:

Repairs and maintenance of a structure occupied by a nonconforming use may be made, provided that no structural alterations are made other than those required by law.

Damage or Destruction of Structures:

Should a structure occupied by a lawful nonconforming use be damaged to the extent that the cost of restoration exceeds fifty (50) percent of the replacement cost of the structure, the nonconforming use shall no longer be permitted.

Nonconforming Uses and Conditional Use Permits:

A lawful pre-existing use which would require a Conditional Use Permit in its zoning district shall be presumed to have the appropriate Permit and shall be considered a conforming use. The use shall be subject to the regulations governing lapses or revocation of Permits, set forth in Article Twelve.

# 10

## ARTICLE TEN

### ADMINISTRATION AND PROCEDURES

#### 1001 Purpose

The Administration and Procedures Provisions establish the methods for implementation of the Zoning Ordinance. These provisions include procedures for reviewing specific uses within certain zoning districts; amending the Zoning Ordinance; and granting variances.

#### 1002 Site Plan Review Procedure

##### 1. Purpose

The Site Plan Review Procedure provides for the administrative review in addition to plan review required by other sections of the Madison Municipal Code of projects that have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.

##### 2. Administration

The Zoning Administrator, or his/her designee, shall review, evaluate, and act on all site plans submitted pursuant to this procedure. An applicant may appeal a denial of any application to the Board of Adjustment.

##### 3. Uses Requiring Site Plan Review

The following selected uses shall follow the Site Plan review procedure prior to the issuance of a Zoning Permit, unless they are otherwise subject to a Conditional Use Permit procedure for specific zoning districts.

- a. Multiple family developments with 12 or more dwelling units.
- b. Education Facilities
- c. Automotive Washing
- d. Automotive Sales
- e. Any use including drive-in services.
- f. Any commercial, industrial, or office building providing over 10,000 square feet in building area.
- g. Any industrial use adjacent to a residential zoning district.

##### 4. Application Requirements

An application for a Site Plan Review may be filed by the owner(s) of a property or the owners' authorized agent with the Zoning Administrator. The application shall include the following information:

- a. Name and address of the applicant.
- b. Owner, address, and legal description of the property.
- c. A description of the nature and operating characteristics of the proposed use.

- d. A site plan, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
  - i. The date, scale, north point, title, name of owner, and name of person preparing the site plan.
  - ii. The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.
  - iii. The location, size, and use of proposed and existing structures on the site.
  - iv. The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping, and lighting.
  - v. Location of any major site feature, including drainage and contours at no greater than five foot intervals.
  - vi. Any other information that may be required for review by the Zoning Administrator, or his/her designee.

#### 5. Administrative Action and Appeal

The Zoning Administrator, or his/her designee, must act upon each complete application within ten working days of filing. An applicant may appeal a denial to the Board of Adjustment within fifteen days of the action. The Board of Adjustment shall consider the appeal at the first available meeting after the filing of the appeal.

#### 6. Review and Evaluation

- a. The Zoning Administrator, or his/her designee (or the Board of Adjustment in cases of appeal), shall review and approve the site plan based on the criteria established in the applicable regulations in this Zoning Ordinance.
- b. The Zoning Administrator, or his/her designee (or the Board of Adjustment in cases of appeal), shall make the following findings before approval of the site plan:
  - i. The proposed development, together with any necessary modifications, is compatible with the criteria established in this Zoning Ordinance.
  - ii. Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.
  - iii. The site plan conforms to the Zoning Ordinance.

#### 7. Modification of Site Plan

The Zoning Administrator, or his/her designee (or the Board of Adjustment in cases of appeal), may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than base district regulations and may include, but not be limited to, additional landscaping or screening; installation of erosion control measures; improvement of access or circulation; rearrangement of structures on the site; or other modifications deemed necessary to protect the public health, safety, welfare, community character, property values, and/or aesthetics.

8. Term and Modification of Approval

- a. A Site Plan Approval shall become void one year after the date of approval, unless the applicant receives a Zoning Permit and diligently carries out development prior to the expiration of this period.
- b. The Zoning Administrator, or his/her designee, may approve an application to modify a previously approved site plan if he/she determines that the modification does not affect findings related to the criteria set forth in this Zoning Ordinance.
- c. The Zoning Administrator, or his/her designee, may revoke a Site Plan Approval if he/she determines that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Board of Adjustment.

9. Approval to Run With Land

An approval pursuant to this section shall run with the land, provided no changes in the site plan are made, until the expiration date of such approval.

**1003 Conditional Use Permit Procedure**

1. Purpose

The Conditional Use Permit Procedure provides for public review and discretionary City Council approval for uses within zoning districts which have unusual site development or operating characteristics that could adversely affect surrounding properties.

2. Administration

The Joint Planning Commission shall review and evaluate each application and transmit its recommendation to the City Council. The City Council shall review, evaluate, and act upon all applications submitted pursuant to this procedure.

3. Application Requirements

An application for a Conditional Use Permit may be filed with the Zoning Administrator by the owner(s) of a property or the owners' authorized agent. The application shall include the following information:

- a. Name and address of the applicant.
- b. Owner, address and legal description of the property.
- c. A description of the nature and operating characteristics of the proposed use.
- d. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.

4. Approval Process

- a. The Joint Planning Commission, following proper notice, shall hold a public hearing on each Conditional Use Permit and, following such public hearing, shall recommend action to the City Council.
- b. The City Council, after publication and public hearing, shall act on the Conditional Use Permit. A majority vote of those members either elected or appointed to the City Council is required for approval.

5. Criteria for Review

The Joint Planning Commission and the City Council shall review and approve the site plan based on the criteria established in Table 10-1 and conformance with applicable regulations in this Zoning Ordinance.

6. Scope of City Council's Approval

- a. The City Council may, at its discretion, apply a Conditional Use Permit to a specific owner or applicant. The City Council may establish special site development or operational regulations as a condition for approval of a Conditional Use Permit.
- b. The City Council shall not grant a Conditional Use Permit for any home occupation/home-based business which is otherwise prohibited under this Ordinance.

7. Lapse and Revocation of Permit

- a. A Conditional Use Permit shall become void one year after its effective date if the applicant has not carried out development or occupancy during that period.
- b. The City Council may revoke a Conditional Use Permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.

8. Previously Approved Permits

Any Conditional Use approved under regulations in effect before the effective date of this Ordinance shall be considered to have a valid Conditional Use Permit, subject to requirements imposed at the time of its approval.

**Table 10-1: Criteria for Site Plan Review and Conditional Use Permits**

Land Use Compatibility	CRITERIA	APPLIES TO	
		Site Plan Review	Conditional Use Permit
Development Density	Site area per unit or floor area ratio should be similar to surrounding uses if not separated by major natural or artificial features.		X
<b>Height and Scale</b>			
Height and Bulk	Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations.	X	X
Setbacks	Development should respect pre-existing setbacks in surrounding area. Variations should be justified by site or operating characteristics.	X	X
Building Coverage	Building coverage should be similar to that of surrounding development of possible. Higher coverage should be mitigated by landscaping or site amenities.	X	X
<b>Site Development</b>			
Frontage	Frontage along a street should be similar to lot width.	X	X
Parking/Internal Circulation	Parking should serve all structures with minimal conflicts between pedestrians and vehicles.	X	X
	All structures must be accessible to public safety vehicles.	X	X
	Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points.	X	X
Landscaping	Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drains should be preserved.	X	X
<b>Building Design</b>	Architectural design and building materials should be compatible with surrounding areas.		X
<b>Operating Characteristics</b>			
Traffic Capacity	Project should not reduce the existing level of traffic service on adjacent streets. Compensating improvements will be required to mitigate impact on street system.	X	X
External Traffic Effects	Project design should direct non-residential traffic away from residential areas.	X	X
Operating Hours	Projects with long operating hours must minimize effects on surrounding residential areas.	X	X
Outside Storage	Outside storage areas must be screened from surrounding streets and less intensive land uses.	X	X
<b>Public Facilities</b>			
Sanitary Waste Disposal	Developments within 500 feet of a public sanitary sewer must connect to sewer system. Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare.	X	X
	Adequate sanitary sewer capacity to serve development.	X	X
Storm Water Management	Development should handle storm water adequately to prevent overloading of public storm water system.	X	X
	Development of other properties shall not be inhibited.	X	X
	Development should not increase probability of erosion, flooding, landslides, or other run-off related effects.	X	X
Utilities	Project must be served by utilities.	X	X
	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.	X	X
<b>Comprehensive Plan</b>	Projects should be consistent with the City of Madison's Comprehensive Development Plan.		X

## 1004 Amendment Procedure

### 1. Purpose:

The Amendment Procedures describe the methods by which changes may be made in the text of the Zoning Ordinance (text amendment) and/ or the official boundaries of zoning districts (rezoning).

### 2. Initiation of Amendments:

- a. Text amendments may be initiated by the Joint Planning Commission or City Council.
- b. Rezoning may be initiated by a property owner or authorized agent; the Joint Planning Commission; or the City Council.

### 3. Rezoning Application Requirements:

An application for a rezoning may be filed with the Zoning Administrator, or his/her designee. The application shall include the following information:

- a. Name and address of the applicant.
- b. Owner, address and legal description of the property.
- c. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.
- d. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.

### 4. Amendment Process:

- a. The Joint Planning Commission, following ten days notice and publication, shall hold a public hearing on each proposed text or rezoning and, following such public hearing, shall recommend action to the City Council. A vote either for or against an amendment by a majority of all Joint Planning Commission members shall constitute a recommendation to the City Council. A vote either for or against an amendment by less than a majority of all Joint Planning Commission members shall constitute a failure to make a recommendation to the City Council.
- b. The City Council, after publication and public hearing, shall act on the proposed amendment. A majority vote of those members either elected or appointed to the City Council is required for approval.

### 5. Required Notice and Publication:

Prior to consideration of amending, supplementing, changing, modifying, or repealing this ordinance by the governing body, notice of public hearings shall be provided as follows:

- a. **Notice by Posted Sign:** A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than eighteen inches in height and twenty-four inches in width with a white background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearing.

- b. **Publication:** At least ten days before the date of hearing, the City Clerk shall have published in a daily newspaper having a general circulation in the City of Madison a Notice of the time, place and subject matter of such hearing

## **1005 Extension of the Extra-Territorial Jurisdiction**

Upon the automatic extension of the one-mile Extra-Territorial Jurisdiction due to annexation, the City Council with the recommendation of the Joint Planning Commission shall zone properties within the newly established Jurisdiction concurrent with adoption of the annexation ordinance. The zoning shall consider the Comprehensive Development Plan of the City of Madison and the present use of the land.

## **1006 Zoning Permits and Certificates of Zoning Compliance**

### **1. Administration and Enforcement:**

The Zoning Administrator shall administer and enforce this ordinance. The City Council may direct other persons to assist him/her.

If the Zoning Administrator, or his/her designee shall find that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/ she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

### **2. Zoning Permits Required:**

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the Zoning Administrator, or his/her designee. No Zoning Permit shall be issued by the Zoning Administrator, or his/her designee, except in conformity with the provisions of this ordinance, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by this ordinance.

### **3. Application for Zoning Permit:**

All applications for Zoning Permits shall include plans if applicable in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration.

The application shall include such other information as lawfully may be required by the Zoning Administrator, or his/her designee, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this ordinance.

### **4. Certificates of Zoning Compliance for New, Altered or Non-Conforming Uses:**

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the Zoning Administrator, or his/her designee, stating that the proposed use of the building or land conforms to the requirements of this ordinance.

### **5. Expiration of Zoning Permit:**

- a. If the work described in any Zoning Permit has not begun within one year from the date of issuance thereof, said permit shall expire; it shall be canceled by the administrative official; and written notice thereof shall be given to the persons affected.
- b. If the work described in any Zoning Permit has not been substantially completed within one year of the date of issuance thereof, said permit shall expire and be canceled by the administrative official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new Zoning Permit has been obtained.
- c. The expiration date of a Zoning Permit may be established for a period longer than one year if established at the time that such permit is issued by the City. The Zoning Administrator, or his/her designee may, at his/her discretion extend the expiration period of the Zoning Permit.

Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance:

Zoning Permits or certificates of zoning compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this ordinance, and punishable as provided by Section hereof.

**1007 Schedule of Fees, Charges and Expenses.**

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for Zoning Permits, certificates of zoning compliance, appeals, and other matters pertaining to this ordinance.

The schedule of fees shall be posted in the office of the administrative official, and may be altered or amended only by the City Council.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

**1008 Board of Adjustment**

1. Establishment:

- a. Under the Joint Planning Agreement between Madison County and the City of Madison, the Madison County Board of Adjustment will serve as the Board of Adjustment for the City of Madison.

2. Procedure for Appeals

- a. Appeals shall be made to the Board of Adjustment through the office of the Zoning Administrator in written form as determined by the Zoning Administrator. The Board shall fix a reasonable time for the hearing of the appeal and shall decide the appeal within thirty (30) days of the date of the public hearing. An appeal stays all proceedings in furtherance of the action, unless the Zoning Administrator certifies to the Board that by reason of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property.
- b. The Board shall provide a minimum of ten (10) days notice of a public hearing on any question before it. Notice of the hearing shall be posted in a conspicuous place on or near the property on which the application has been made; by publication in a newspaper of general circulation in the City of Madison; and by written notice to the appealing party.
- c. Upon the public hearing, any party may appear in person or by agent or attorney. The concurring vote of four out of five members of such board as so composed shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor

of the appellant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variation in such ordinance.

## **1009 Powers and Duties of the Board of Adjustment**

The Board of Adjustment shall have only the following powers and duties:

Administrative Review: To hear and decide appeals where it is alleged there is error in any order, requirement, decisions or determination made by the Zoning Administrator, or his/her designee in the enforcement of this Ordinance or any regulation relating to the location or soundness of structures

Interpretation of Zoning Map: To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map.

Variances to Relieve Hardships Relating to Property: To authorize, upon appeal, variances from the strict application of this Ordinance where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the zoning regulations; or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, such strict application would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property.

1. Requirements for Grant of a Variance. No such variance shall be authorized by the Board unless it finds that:
  - a. Strict application of the zoning ordinance will produce undue hardship.
  - b. Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
  - c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
  - d. 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.
  - e. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this Zoning Ordinance.
  - f. The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.
2. Findings by Board. The Board of Adjustment shall make findings that the requirements of Section 1009(1) have been met by the applicant for a variance.
3. Conditions for Grant of Variance.
  - a. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 1014 of this Ordinance.
  - b. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

- c. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

Board has Powers of Zoning Administrator on Appeals: Reversing Decisions of Zoning Administrator:

In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determination as ought to be made, and to that end shall have the powers of the Zoning Administrator from whom the appeal is taken.

The concurring vote of four members of the Board shall be necessary to reverse any order, requirements, decision, or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

**1010 Appeals from the Board of Adjustment**

Any person or persons, or any board, taxpayer, officer, department, board or bureau of the city aggrieved by any decision of the Board of Adjustment 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 19-912 R.R.S. 1943 (Reissue 1991), and amendments thereto.

**1011 Duties of Zoning Administrator, Board of Adjustment, City Council, and Courts on Matters of Appeal**

1. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of Board of Adjustment shall be to the courts as provided by law.
2. Under this ordinance the City Council shall have only the duties (1) of considering and adopting or rejecting proposed amendments, or the repeal of this ordinance as provided by law, (2) of establishing a schedule of fees and charges as stated in Section 10 of this Ordinance, and (3) of directing a city officer to appeal a decision of the Board of Adjustment.

**1012 Severability Clause**

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

**1013 Complaints Regarding Violations**

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

**1014 Penalties for Violation**

1. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a Class III misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisonment for not more than thirty (30) 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.

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