

City of Atkinson, Nebraska

ZONING REGULATIONS

2016



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1 ARTICLE ONE

GENERAL PROVISIONS

101 Title

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

102 Jurisdiction

The provisions of this chapter shall be applicable to all property within the corporate limits of the City of Atkinson 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 Atkinson 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 Atkinson.

104 Consistency with Comprehensive Development Plan

The City of Atkinson 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 Atkinson, 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 Atkinson, Nebraska.

2 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.

1. **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.
2. **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.
3. **Shall, Must, and May:** “Shall” and “Must” are always mandatory. “May” is discretionary.
4. **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.
5. **Conjunctions:** Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
 - a. “And” indicates that all connected items or provisions apply.
 - b. “Or” indicates that the connected items or provisions may apply singly or in any combination.
 - c. “Either ... or” indicates that the connected items or provisions shall apply singly but not in combination.
6. **Referenced Agencies:** Unless otherwise indicated, all public officials, bodies, and agencies referred to in this Chapter are those of the City of Atkinson.

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. **Abutting.** Having lot lines or district boundaries in common, including property separated by a public street or alley. Used interchangeably with adjacent.
2. **Abutting Owner.** Two persons or parties having property or district lines in common.
3. **Accessory Structure.** A structure which is incidental to and customarily associated with a specific principal use or building on the same site.
4. **Accessory Use.** A use which is incidental to and customarily associated with a specific principal use on the same site.
5. **Addition.** Any construction which increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.
6. **ADT or Average Daily Traffic.** The average number of motor vehicles per day that pass over a given point or segment of street.
7. **Adult Use, Adult Entertainment Business.** (1) Any adult bookstore, adult hotel or motel, adult motion picture arcade, adult motion picture theater, cabaret, sexual encounter center, an establishment providing nude dancing or other live or recorded performances, or any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. (2) A business that utilizes a significant portion of its display areas to sell, rent, or lease any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the male or female genitals which predominantly pruriently, shamefully, or morbidly depicts nudity, sexual conduct, sexual excitement, or sadomasochistic abuse.
8. **Adult Use, Specified Anatomical Areas.** Less than completely and opaquely covered anal region, buttock, female breasts below a point immediately above the top of the areole, human genitals, pubic region, or human male genitals in a discernible turgid state, even if completely and opaquely covered.
9. **Adult Use, Specified Sexual Activities.** (1) Human genitals in a state of sexual stimulation or arousal; or (2) acts of human masturbation, sexual intercourse, or sodomy; (3) fondling or other erotic touching of human genitals, pubic region, buttock, or female breast; or (4) excretory functions as part of or in connection with any of the activities set forth
10. **Agent of Owner.** Any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.
11. **Airport.** Any area of land or water designated, set aside, used, or intended for use, for the landing and take-off of aircraft, and any appurtenant, areas designated, set aside, used, or intended for use, for airport buildings or other airport facilities, rights-of-way, or approach zones, together with all airport buildings and facilities located thereon.

DEFINITIONS

12. **Alley.** A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property, and has a right-of-way twenty (20) feet or less in width.
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. **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.
15. **Approving Authority.** The City Council of Atkinson, Nebraska or its designee.
16. **ASCE.** The American Society of Civil Engineers.
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.

205 **B**

1. **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.
2. **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.
3. **Bed and Breakfast.** A house or portion thereof where short – term lodging rooms and meals are provided. The operator of the establishment shall live on the premises or in adjacent premises.
4. **Beginning of Construction.** The initial incorporation of labor and materials within the foundation of a building or structure.
5. **Block.** An area of land within a subdivision that is entirely bounded by streets, by streets and the exterior boundaries of the subdivision, or by a combination of the above with a watercourse or lake, and which has been designated as such on a plat for the purposes of legal description of a property.
6. **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 Brock.
7. **Board of Adjustment.** A body, established by the City, 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.

DEFINITIONS

8. **Boarding or Lodging House.** A building other than a hotel or motel where, for compensation and by pre-arrangement for definite periods, meals, or lodging and meals, are provided for three or more persons, but not to exceeding 60 persons.
9. **Bufferyard.** A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.
10. **Building.** An enclosed structure, anchored to a permanent foundation, and having a roof support by columns or walls, intended, designed, used, or suitable for use for the support, enclosure, shelter, or protection of persons, animals, or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. "Building" includes "structure."
11. **Building Coverage.** The area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.
12. **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.
13. **Building Height:** (See Height)
14. **Building Inspector.** The designee of the City Council, responsible for the enforcement of the Uniform Building Code.
15. **Building Line.** The outer boundary of a building established by the location of its exterior walls.
16. **Building – Main.** A building in which is conducted the principal use of the lot or parcel upon which it is situated. Every dwelling in the residence district is a main building.
17. **Building Official.** The person or persons designated by the governing body to administer this subdivision ordinance whether such person or persons by entitled Building Official, Building Inspector, Administrative Official, or Zoning Administrator.
18. **Building Permit.** A document that must be issued by the City prior to erecting, constructing, enlarging, altering, moving, improving, removing, converting, or demolishing any building or structure on a platted lot or parcel.
19. **Building Site.** The land area, consisting of one or more lots or parcel of land under common ownership or control, considered as the unit of land occupied or to be occupied by a main building or buildings and accessory buildings, or by a principal use or uses accessory thereto, together with such parking and loading spaces, yards and open spaces as are required by these regulations.
20. **Business.** Activities that include the exchange or manufacture of goods or services on a site.
21. **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.

206 **C**

1. **Campgrounds.** Any premises where two (2) or more camping units are parked/placed for camping purposes, or any premises used or set apart for supplying to the public, camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures used or intended for use or intended wholly or in part for the accommodation of transient campers.
2. **Cartway.** The actual surface area of a road used to accommodate motor vehicles, including moving traffic lanes, acceleration and deceleration lanes, and parking lanes. On a street with curbs, the cartway is measured from curb line to curb line. On streets without curbs, the cartway is measured from the flowline of one curb to the flowline of the opposite curb.
3. **Carwash.** An area of land and/or a structure with machine-or-and operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.
4. **Cat.** Feline species over 3 months of age.
5. **Centerline Offset.** The distance between the centerline of roads intersecting a common road from the same or opposite sides.
6. **Certificate of Occupancy.** An official certificate issued by the City of Atkinson, prior to occupancy of a completed building or structure, upon finding of conformance with the applicable building code and this Ordinance.
7. **Certificate of Zoning Compliance.** An official certificate issued by the Planning Director or his/her designee, which indicates that the proposed use of building or land complies with the provisions of the Zoning Ordinance.
8. **Change of Use.** The replacement of an existing use by a new use.
9. **Channel.** The bed or banks of a natural stream or drainageway which convey the constant or intermittent flow of water, including storm run-off.
10. **Child Care Center.** A facility defined by and is or should be licensed by the Nebraska Department of Health and Human Services.
11. **Child Care Home.** A private home providing care (for children) for compensation, as defined by and is or should be licensed by the Nebraska Department of Health and Human Services.
12. **City.** Shall mean the City of Atkinson, Nebraska.
13. **City Council.** Also referred to as "Council", shall mean the City Council of the City of Atkinson.
14. **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.
15. **Collector Street.** A street connecting neighborhoods within the same communities, designed to carry traffic from local to arterial streets.

16. **Commercial/Utility Wind Energy Systems (Large).** Shall mean a wind energy system of equal to or greater than 100 kW in total generating capacity.
17. **Commercial Venture.** An activity undertaken as a primary means of income or which provides a substantial supplement to a primary income.
18. **Common Area.** An area held, designed, and designated for common or cooperative use within a development.
19. **Common Development.** A development proposed and planned as one unified project not separated by a public street or alley.
20. **Common Open Space.** That undivided land in a subdivision which may be jointly owned by all property owners of the subdivision, for the benefit of the owners of the individual building sites of said development.
21. **Common Sewer System.** A sanitary sewage system in public ownership which provides for the collection and treatment of domestic effluent in a central sewage treatment plant which meets the minimum requirements of the Nebraska Department of Environmental Quality for primary and secondary sewage treatment and which does not include individual septic tanks or portable sewage treatment facilities.
22. **Common Water System.** A water system which provides for the supply, storage and distribution of potable water on an uninterrupted basis which is in public ownership.
23. **Communications Tower.** A tower, pole, or other similar structure that supports a telecommunications antenna or antenna used for the transmission or broadcast of radio, television, radar, or microwaves.
24. **Community Center.** A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreation programs generally open to the public and designed to accommodate and serve significant segments of the community.
25. **Compatibility.** 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.
26. **Comprehensive Plan.** The long range development plan adopted by the Atkinson City Council.
27. **Concept Plan.** A preliminary presentation which includes the minimum information necessary, as determined by the Zoning Administrator, to be used for the purpose of discussion or classification of a proposed plat prior to formal application.
28. **Conditional Use.** A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would not be detrimental to public health, safety, or general welfare.
29. **Conditional Use Permit.** A permit used to give approval of a conditional use with operating and/or physical characteristics different from those of permitted uses in a given zoning district which may, nonetheless, be compatible with those uses under special conditions and with adequate public review. Conditional uses are allowed in a zoning district only at the

DEFINITIONS

- discretion of and with the explicit permission of the Planning Commission and City Council.
30. **Condominium.** A single dwelling units in a multi-unit dwelling or structure, which is separately owned and which may be combined with an undivided interest in the common areas and facilities of the property.
 31. **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.
 32. **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.
 33. **Convalescent Care.** (See Nursing Home.)
 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. **County.** Holt County, Nebraska.
 36. **County Board.** The County Board of Holt County, Nebraska.
 37. **Court.** An approved private right-of-way which provides access to residential properties and meets at least three of the following conditions:
 - a. Serves twelve or fewer housing units or platted lots.
 - b. Does not function as a local street because of its alignment, design, or location.
 - c. Is completely internal to a development.
 - d. Does not exceed 600 feet in length.
 38. **Courtyard.** An open, unoccupied space, bounded on two or more sides by the walls of the building.
 39. **Covenant.** Written promise or pledge.
 40. **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.
 41. **Cul-De-Sac.** A local street with only one (1) outlet and with an opposite end providing for the reversal of traffic.
 42. **Culvert.** A transverse drain that channels water under a bridge, street, or driveway.
 43. **Curb.** A vertical or sloping edge of a roadway, intended to define the edge of the cartway or street and to channel or control drainage.

207 **D**

1. **Day Care Center.** (See Child Care Center).
2. **Day Care Home.** (See Child Care Home).
3. **Density.** The amount of development per specific unit of a site.
4. **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.
5. **Detention Basin.** An artificial or natural water collection facility, designed to collect surface or subsurface water and to control its rate of discharge, in order to prevent a net increase in the rate of water flow that existed prior to a development.
6. **Developer.** The legal owner(s) or authorized agent of any land included in a proposed development.
7. **Development.** A planning or construction project involving substantial improvement or change in the character and/r land use of a property.
8. **Development Agreement.** An agreement between the City and Subdivider whereby the Subdivider guarantees to complete all improvements and terms for payment of costs for same.
9. **Divided Street.** A street with opposing lanes separated by a median strip, center island, or other form of physical barrier, which cannot be crossed except at designated locations.
10. **District or Zone.** A section or sections 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 are herein established.
11. **Dog.** Any canine species over six (6) months of age.
12. **Drainage.** The removal of surface or ground water from land by drains, grading, or other means.
13. **Drainage Systems.** The system through which water flows from the land.
14. **Drive-in Services.** Uses which involve the sale of products or provision of services to occupants in vehicles.
15. **Driveway.** A permanently paved, surfaced area providing vehicular access between a street and an off-street parking or loading area.
16. **Duplex.** A two-family residential use in which the dwelling units share a 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.

17. **Dwelling for the Elderly and/or Handicapped.** A two-family or Multiple-family dwelling having accommodations for and occupied exclusively by elderly or handicapped residents and necessary maintenance personnel. Elderly residents are those people who are at least sixty-two (62) years of age. Handicapped Persons are those people having an impairment which is expected to be of long, continuous and indefinite duration and is a substantial limitation to their ability to live independently.
18. **Dwelling, Multiple-family.** A building or portion thereof designed with accommodations for or occupied by three (3) or more families living independently of each other who may or may not have joint services or facilities or both. The term includes dormitories and lodging and boarding houses but does not include hotels, motels, and tourist courts.
19. **Dwelling Single Family.** A dwelling having accommodations for and occupied exclusively by one family.
20. **Dwelling, Single-Family Attached or Townhouse.** A portion of a dwelling 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 the other portions.
21. **Dwelling, Two-family.** A building or semi-detached building or portion thereof designed or occupied exclusively by two families living independently of each other.
22. **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. **Earth Sheltered Residence.** A residence designed as a complete structure below or partially below ground level, which was not intended to serve as a substructure or foundation for a building.
2. **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.
3. **Enclosed.** A roofed or covered space fully surrounded by walls.
4. **Engineer.** One, licensed by the State of Nebraska, designated by the Atkinson City Council to act for the City.
5. **Erosion.** The wearing a way of a land surface by water, wind, ice, or gravity.

209 **F**

1. **Family.** One or more persons living together and sharing common living, sleeping, cooking, and eating facilities within an individual housing unit, no more than 3 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.
2. **Farm.** The use of a tract of land of twenty (20) acres or more for the growing of crops, pasture, nursery, or the raising of poultry and livestock, including the structures necessary for carrying out farming operations and the residence or residences of those owning or operation the premises, or persons employed thereon.
3. **Fascia.** A parapet-type wall used as part of the façade of a flat-roofed building and projecting no more than six (6) feet from the immediately adjacent building face. Such wall shall enclose at least three (3) sides of the projecting flat roof and return to the parapet wall or the building.
4. **Federal.** Pertaining to the Government of the United States of America.
5. **Feedlot.** Any tract of land or structure, pen, or corral, wherein cattle, horses, sheep, goats, swine and poultry are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.
6. **Fence.** Any vertical structure, other than a building or plant material which is for the purpose of obstructing visual observation, or for the purpose of obstructing pedestrian, automotive or animal movement, or for the purpose of beautification, and which is attached to the ground or to a building, but excluding retaining walls.
 - a. **Open Fence:** A fence where the design contains openings that constitute not less than fifty percent (50%) of the surface area of the fence. The surface area is the product of a length of fence measured from the inside edge of one support post or column to the inside edge of the next adjacent support post or column; times the height of the same section of fence.
 - b. **Closed Fence:** A fence where the design of the fence has more than fifty (50%) percent of the surface area closed.
7. **Floodplain.** Floodplain or flood-prone area means any land area Susceptible to being inundated by water from any source.
8. **Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point.

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9. **Floodway Fringe.** All that land in a floodplain not lying within a delineated floodway. Land within a floodway fringe is subject to an inundation by relatively low velocity flows and shallow water depths.
10. **Floor Area Ratio.** The quotient of gross floor area divided by gross site area.
11. **Foundation.** The supporting substructure of a building or other structure, including but not limited to, basements and slabs designed to provide a structural system for transferring loads from a structure to the earth.
12. **Foundation, Permanent.** (1) A full, poured concrete or masonry foundation; (2) a poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor; (3) a floating slab for which the municipality may require an engineer's certification; (4) any foundation which, pursuant to the building code of the municipality, is permitted for other types of single-family dwellings.
13. **Frontage.** The length of a property line of any one premises abutting and parallel to a public street, private way, or court.
14. **Funeral Home.** A building or part hereof used for human funeral Services, such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; and d) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

210 G

1. **Garage, Private.** A building for the private use of the owner or Occupant of a principal building situated on the same lot or attached to the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.
2. **Garage, Public.** A building designed and used for the storage of Personal property or automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.
3. **Garage, Repair.** (See also Service Station.) 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. **Governing Body.** The City Council of the City of Atkinson, Nebraska.
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. **Green Area.** (See Common Open Space.)
- 7. **Greenhouse.** A structure devoted to the cultivation and/or the protection of plants. Usually having a roof and/or sides of translucent material.
- 8. **Gross Floor Area.** The total enclosed area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of basements, elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use.
- 9. **Group Home.** Means a facility which houses more than five (5) but less than sixteen (16) persons. Those facilities may offer, in addition to lodging, accommodations, meals, resident support services, counseling, guidance and varying levels of medical care. Such facility shall be licensed or approved by the State of Nebraska or other appropriate agency.
- 10. **Group Home for the Handicapped.** (See also Family.) A dwelling shared by four or more handicapped persons, including resident staff, 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 resident to live independently as possible in order to reach their maximum potential. As used herein, the term “handicapped” shall mean 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; 2) a record of having such an impairment; or 3) being regarded as having such an impairment. However, “handicapped” shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term “group home for the handicapped” shall not include alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities for serving as an alternative to incarceration.

211 H

- 1. **Hazardous Substances.** Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.
- 2. **Health/Recreation Facility.** An indoor facility including uses such as game courts, exercise equipment, locker rooms, Jacuzzi, and/or sauna and pro shop.
- 3. **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.

4. **Helistop – Limited Use.** Any landing area used for the taking off or landing of private helicopters for the purpose of picking up and discharging of passengers or cargo. This facility is not open to use by any helicopter without prior permission having been obtained.
5. **Hike/Bike/Pedestrian Trail.** A recreational trail prohibiting all non-emergency or public maintenance motorized vehicles.
6. **Historic District.** An area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.
7. **Hobby.** An activity undertaken as a means of providing relaxation, enjoyment or a learning experience and where any income is an incidental part of the activity.
8. **Home Based Business/Home Occupation.** An accessory occupational use conducted entirely within a dwelling unit by its inhabitants, which is clearly incidental to the residential use of the dwelling unit or residential structure and does not change the residential character of its site.
9. **Hospital.** An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured person, and licenses by state law to provide facilities and services in surgery, obstetrics, and general medical practice.
10. **Hotel or Motel.** A building or portion thereof, or a group of buildings, used as a transient abiding place which may or may not serve meals and whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court, tourist cabin, tourist court, or other similar designation.
11. **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, including permanent provisions for cooking.

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.

DEFINITIONS

2. **Impervious Surface.** Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks, and paved recreation areas.
3. **Improvement.** Street pavement or resurfacing, curbs, gutter, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping, and other related matters normally associated with the development of raw land into building sites.
4. **Inoperable Motor Vehicle.** A motor vehicle that is wrecked, dismantled, or unable to move under its own power or is impounded by a governmental agency or is not currently licensed.
5. **Intensive Livestock, Confinement Facilities/Operations.** Shall mean any building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than 180 days within any calendar year, beginning January 1st.

213 I

1. **Junk.** Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof.
2. **Junk Yard.** A lot, land or structure or part thereof, used primarily for the collection, storage and sale of waste paper, rags, scrap metal, or discarded material, or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

214 K

1. **Kennel.** An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

215 L

1. **Landfill.** (See Solid Waste Landfill).
2. **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.
- 3. **Laundry, Self Service.** A business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises.
- 4. **Lean-to.** Building having three (3) sides and a roof using the wall of another building for the fourth (4th) side used for storage or a workshop.
- 5. **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.
- 6. **Lot.** A parcel of land shown as a unit on a recorded subdivision plat.
- 3. **Lot Area.** The total horizontal area within the lot lines of a lot.
- 4. **Lot, Corner.** A lot abutting upon two (2) or more streets at their intersection.
- 5. **Lot Depth.** The mean horizontal distance measured between the front and rear lot lines.
- 6. **Lot, Double Frontage.** A lot, other than a corner lot, having a frontage on two streets.
- 7. **Lot, Flag.** Lots or parcels that the City has approved with less frontage on a public street than is normally required. The panhandle is an access corridor to lots or parcels located behind lots or parcels with normally required street frontage.
- 8. **Lot, Interior.** A lot other than a corner lot which has frontage on one (1) street only.
- 9. **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.
 - a. **Front Lot Line.** The lot line separating a lot and a public or private street right-of-way or easement.
 - i. For an interior lot, the lot line separating the lot from the right-of-way or easement.
 - ii. 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.
 - iii. 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.
 - b. **Rear Lot Line.** The lot line which is opposite and most distant from the front line.

- c. **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.
- 10. **Lot of Record.** A lot whose existence, location, and dimensions have been legally recorded or registered in a deed or on a plat.
- 11. **Lot, Substandard.** A lot or parcel of land that has less than the required minimum area or width as established by the zone in which it is located and provided that such lot or parcel was of record as a legally created lot on the effective date of the ordinance codified in this title.
- 12. **Lot, Through.** A lot having its front and rear yards each abutting on a street.
- 13. **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. **Main.** The principal artery of a system of continuous piping which conveys fluids and to which branches may be connected.
- 2. **Major Subdivision.** Any subdivision not defined and approved as a minor subdivision.
- 3. **Manufactured Home Dwelling.** 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:
 - a. The home shall have at least 900 square feet of floor area;
 - b. The home shall have an exterior width of at least 18 feet;
 - c. The roof shall be pitched with a maximum vertical rise of 2.5 inches for each 12 inches of horizontal run.
 - d. 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;
 - e. The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
 - f. Permanent utility connections shall be installed in accordance with local regulations;
 - g. The home shall have all wheels, axles, transporting lights, and towing apparatus removed; and
 - h. The home shall be installed upon a permanent foundation that is constructed and built in accordance with local regulations.

4. **Maximum Building Coverage.** This measures the percentage of a site that may be covered by the footprint of buildings. Thus, a twenty thousand (20,000) square foot building on a forty thousand (40,000) square foot site has a building coverage of fifty percent (50%). This is a method of regulating the scale of buildings in an area.
5. **Maximum Impervious Coverage.** This measures the percentage of a site that may be covered by buildings and other surfaces and development features which prevent the penetration of water into the ground (such as driveways, porches, parking lots, and other features). Limits on impervious coverage help control the velocity and quantity of storm water runoff and provide for groundwater recharge.
6. **Medical Office.** 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 medical practitioners licensed for practice in the State of Nebraska.
7. **Mini-Warehouse.** (See Self Service Storage Facility).
8. **Minor Subdivision.** A subdivision of land which creates no more than four lots from any single parcel of land; requires no extensions of streets, sewers, utilities, or other municipal facilities; and complies with all pre-existing zoning requirements following.
9. **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.
10. **Mixed Use Development.** A single development which incorporates complementary land use types into a single development.
11. **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.
12. **Mobile Home, Double-Wide.** A mobile home that consists of two or more sections that are transported separately and assembled at the site into one structure of a width of not less than twenty feet.
13. **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.

14. **Mobile Home, Single-Wide.** A mobile home that consists of one section which the main body, exclusive of expansions or extensions, is sixteen feet or less in width.
15. **Mobile Home Space.** A plot of ground within a mobile home park which can accommodate one mobile home and which provides the necessary utility services for water, sewerage, and electricity.
16. **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.
17. **Modular Home.** “Modular housing unit” shall mean any dwelling whose construction consists entirely of, or the major portions of its construction consists 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. Modular housing units shall be taxed as real estate. The term “modular housing unit” shall not include a manufactured home.
18. **Monuments.** Permanent concrete or iron markers used to establish definitely all lines of the plat of a subdivision, including all lot corners, boundary line corners and points of change in street alignment.

217 **N**

1. **Non-Commercial Wind Energy Systems (Small).** Shall mean a wind energy system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce onsite consumption of utility power.
2. **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.
3. **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.
4. **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.

5. **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.
6. **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.
7. **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.
8. **Nursery.** An area where plants, such as trees and shrubs, are grown for transplanting, for use as stock for budding and grafting or for sale.
9. **Nursing Home – Convalescent Home.** An institution or agency licensed by the State for the reception, board, care, or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

218 Q

1. **Off-Site.** Located outside the boundaries of the parcel that is subject of an application.
2. **Open Space.** An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes.
3. **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.
4. **Out Lot.** Property shown on a subdivision plat outside of the boundaries of the land which is developed and which is to be excluded from the development of the subdivision.
5. **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.
6. **Owner.** An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

219 P

1. **Park.** Any public or private land available for recreation, educational, cultural, or aesthetic use.

DEFINITIONS

2. **Parking Facility.** An area on a lot and/or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this Zoning Ordinance. Parking facilities include parking lots, private garages, and parking structures. Vehicle storage is distinct from parking, and is regulated by provisions in these Regulations.
3. **Parking Lane.** A lane located on the sides of streets, designated or allowing on-street parking of motor vehicles.
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 townhome residential uses shall be considered to have a means of access to a public street.
5. **Parking Space, Off-Street.** Off-street parking shall mean an area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress. A surfaced area of not less than two hundred (200) square feet on private or public property, either within or outside a building, suitable in size and location to store one standard automobile.
6. **Paved.** Permanently surfaced with poured concrete, concrete pavers, or asphalt.
7. **Pavement.** An impermeable, hard surface, typically asphalt, asphaltic concrete, concrete, or brick or other masonry paver units.
8. **Pedestrian Ways.** A tract of land dedicated to public use, which cuts across a block to facilitate pedestrian access to adjoining streets and properties.
9. **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.
10. **Pervious Coverage.** Area maintained in its natural condition, or covered by material that permits infiltration or percolation of water into the ground. Any material that permits absorption of water into the ground.
11. **Planning Commission.** The appointed planning body designated by the Atkinson City Council.
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. **Plat.** Map, drawing, or chart upon which the developer’s plan of subdivision is presented to the City Council for approval and, after such approval, to the appropriate County Clerk for recording.
 - a. **Preliminary Plat.** A plat indicating the proposed layout of a development and related information, intended for the purpose of preliminary approval by approving authorities but not for filing with the Holt County Register of Deeds.

- b. **Final Plat.** The final map of the subdivision which is presented for Final Approval. The Final Plat contains detailed information and documentation and is designed to be filed with the Register of Deeds.
- 14. **Plot.** A parcel of ground.
- 15. **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.
- 16. **Premises.** A lot, parcel, tract or plot of land, contiguous and under common ownership or control, together with the buildings and structure thereon.
- 17. **Principal Building.** Building in which the primary use of the lot is intended.
- 18. **Principal Use.** The primary use and chief purpose of a lot or structure.
- 19. **Property Line.** See "Lot Line."
- 20. **Public Works Plan.** An improvement analysis, conducted and prepared by City Engineer, delineating what necessary sewer, water, drainage, street, storm water, floodplain, well head and easement improvements will be needed for all phases of a subdivision.
- 21. **Public Way.** An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk, or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.

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.** Any lot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles for accommodating temporarily occupied living quarters for recreation or vacation purposes.
- 3. **Recycling Center.** A facility that is not a junk yard and in which recoverable resources are collected, stored, flattened, crushed, or bundled, essentially by hand within a completely enclosed building. (Such as newspaper, glassware, metal, cans, etc.)
- 4. **Regulation.** A specific requirement set forth by this Zoning Ordinance which must be followed.

5. **Remote Parking.** A supply of off-street parking at a location not on the site of a given development.
6. **Restaurant.** An establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tea rooms, and outdoor cafes.
7. **Restaurant, Drive-in.** A retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles.
8. **Restaurant, Fast-food.** An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, or grilled quickly, or heated in a device such as a microwave oven orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers.
9. **Right - of - Way.** A strip of land, taken or dedicated for use as a public way which is occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.
10. **Road, Public.** (See also Right-of-way and Street.) All public property reserved or dedicated for street traffic.
11. **Road, Private.** (See also Right-of-way and Street) A way open to vehicular ingress and egress established as a separate tract for the benefit of certain, adjacent properties. This definition shall not apply to driveways.
12. **Rural Subdivision.** A residential subdivision located more than one-half mile past the corporate limits but within the one-mile planning jurisdiction of the City; or outside of areas designated for future urban development by the Comprehensive Plan.

222 **S**

1. **Salvage or Junk Yard.** A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.
2. **Sanitary Sewer.** A sewer that conducts sanitary wastes from a point of origin to a treatment or disposal facility. In developing areas, sanitary sewers normally include interceptor, outfall, and lateral sewers.
 - a. **Interceptor.** A sanitary sewer that serves as a trunk, collecting sewage generated by a number of individual developments.

DEFINITIONS

- b. **Outfall.** A sanitary sewer that may be developed to connect an individual subdivision or development to an interceptor sewer.
- c. **Lateral or Local.** A pipe that connects individual buildings or groups of buildings to an outfall or interceptor sewer.
- 3. **School.** A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high school.
- 4. **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.
- 5. **Self-Service Storage Facility.** A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.
- 6. **Septic System.** An underground system, utilizing a watertight receptacle to receive the discharge of sewage, which provides for the decomposition of wastes produced by development on a single lot.
- 7. **Service Station.** (See also Garage, Repair) Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted.
- 8. **Setback.** The required minimum horizontal distance between the building line and the related front, side, or rear property line. This establishes the horizontal component(s) of the building envelope.
- 9. **Sewers, On-Site.** A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.
- 10. **Shed.** Free standing building not larger than ten feet by twelve feet (10' by 12') used for storage or workshop.
- 11. **Sidewalk.** A walkway consisting of a paved or cemented area for pedestrians; usually beside a street or roadway but within the right-of-way.
- 12. **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 2-1/2 feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the center line of the streets, 80 feet in each direction along the center line of the streets. At the intersection of major or arterial streets, the 80-foot distance shall be increased to 120 feet for each arterial leg of the intersection.
- 13. **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.

DEFINITIONS

14. **Single Family, Attached.** A dwelling having a common wall with another dwelling. The common wall is on a lot line dividing two (2) residential lots. Each dwelling may be the property of two (2) different owners.
15. **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.
16. **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 requested by the City in order that an informed decision can be made on the associated request.
17. **Solid Waste Landfill.** A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles, or parts thereof, or other waste, and which is in conformance with the requirements of the Nebraska Department of Environmental Quality and Nebraska Department of Health and Human Service System.
18. **Solid Waste Transfer Station.** A collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of the Nebraska Department of Environmental Quality and Nebraska Department of Health and Human Service System.
19. **Special Permit Use.** (See Conditional Use Permit)
20. **State.** The State of Nebraska.
21. **Storage Building.** A building or structure used, or intended to be used, for the sole purpose of storing goods and materials.
22. **Storm Sewer.** A conduit which conducts storm drainage from a development or subdivision, ultimately to a drainageway or stream.
23. **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.
24. **Street.** That area of land platted and dedicated for public use, or lawfully used, as a public thoroughfare for vehicular travel; excluding from this definition access ways commonly designated as alleys.
25. **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.
26. **Street, Local.** A street which is used primarily for access to the abutting properties.
27. **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.

28. **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.
29. **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.
30. **Structure.** Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.
31. **Structural Alteration.** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders; any substantial change in the roof or in the exterior walls, excepting from this definition such alterations as may be required for the safety of the building.
32. **Subdivider.** The owners, developers or agents of persons or corporations affecting subdivision.
33. **Subdivision.** Subdivision shall mean the division of a lot, tract, or parcel of land into two (2) or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of ownership or building development. The term includes re-subdivision, and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.
34. **Surveyor.** Any person registered in Nebraska to practice surveying.

223 T

1. **Temporary Use.** A prospective use, intended for limited duration to be located in a zoning district not permitting such use, and not continuing a nonconforming use or building.

2. **Thoroughfare, Street or Road.** The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:
 - a. **Alley:** A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property.
 - b. **Arterial Street:** A street which provides for through traffic movement between and around streets with direct access to abutting property, subject to necessary control of entrances, exits, and curb use.
 - c. **Collector Street:** A street which provides for traffic movement between arterials and local streets, with direct access to abutting property.
 - d. **Cul-de-sac:** A local street of relatively short length with one (1) end open to traffic and the other end terminating in a vehicular turnaround.
 - e. **Dead-end Street:** A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
 - f. **Local Street:** A street which provides direct access to abutting land and local traffic movement, whether in business, industrial or residential land.
 - g. **Marginal Access Street:** A local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets. (Also called Frontage Street or Service Road)
3. **Townhouse.** A dwelling unit having a 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.
4. **Townhouse Structure.** A building formed by at least two and not more than twelve contiguous townhouses with common or abutting walls.

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.
2. **Urban Subdivision.** A residential subdivision located within the corporate limits of the City of Atkinson or less than one-half mile of such corporate limits; or within an area designated for future urban development by the Comprehensive Plan.

DEFINITIONS

3. **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.

225 V

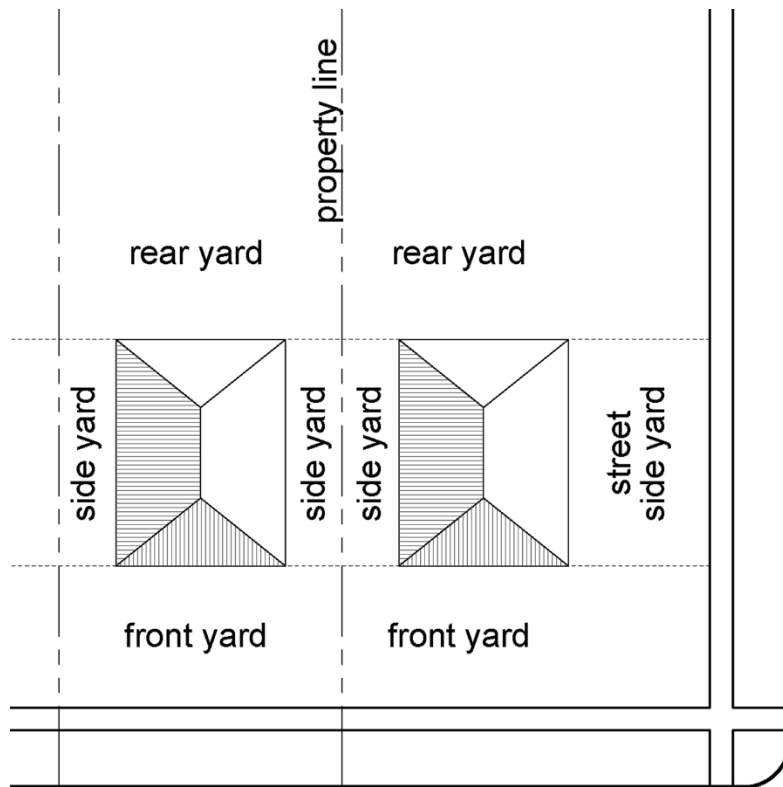
1. **Variance.** A dispensation permitted by the Board of Adjustments relieving a property owner from dimensional requirements of the zoning regulations which would cause exceptional practical difficulties or exceptional and undue hardship.
2. **Vicinity Map.** A drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the City of Atkinson, in order to better locate and orient the area in question.

226 W

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. **Zoning.** A police power measure in which the community is divided into districts or zones within which permitted and conditional uses are established as are regulations governing lot size, building bulk, placement, and other development standards.
2. **Zoning Administrator.** The designee of the City Council, responsible for the interpretation and administration of Atkinson 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 Map.** A map or maps officially enacted by the governing body as part of this ordinance showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the City Clerk as an official record of the City.
5. **Zero Lot Line.** The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

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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.

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 Building Inspector of the City of Atkinson shall have the authority to determine the appropriate use type. A determination of the Building Inspector may be appealed to the Board of Adjustment. In making such determinations, the Building Inspector 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 Building Inspector 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.

1. **Horticulture:** 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.
2. **Crop Production:** The raising, foraging, 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.
3. **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.

4. **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 gazing of natural vegetation is not the major feed source. Typical uses include small commercial feedlots.
5. **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 gazing of natural vegetation is not the major feed source. Typical uses include large commercial feedlots.
6. **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.

1. **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).
 - a. **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.
 - b. **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 common vertical wall to only one other adjacent dwelling unit on another single lot.
2. **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.
3. **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.

4. **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.
5. **Multiple-Family Residential:** The use of a site for three or more dwelling units within one building.
6. **Downtown Residential:** The use of upper levels above street level of a building within the Central Business District of the City of Atkinson for single- or multiple-family residential uses.
7. **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.
8. **Manufactured Home Residential:** Use of a site for one or more manufactured home dwellings, as defined in Section 216.
9. **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.
10. **Mobile Home Subdivision:** Division of a tract of land into lots that meet all the requirements of the City of Atkinson'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.
11. **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.

1. **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.
2. **Cemetery:** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbarium, crematoria, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

3. **Clubs:** Uses providing meeting, recreational, or social facilities for a private, nonprofit or noncommercial association, primarily for use by members and guests.
4. **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.
5. **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.
6. **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.
7. **Child 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:
 - a. Child Care Center
 - b. Family Child Care Home I
 - c. Family Child Care Home II
 - d. School-Age-Only Center
 - e. Preschool
8. **Child Care Services (Limited):** This Use Type includes all classifications of child 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.
9. **Child Care Services (General):** This Use Type includes all classifications of child 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.
10. **Detention Facilities:** A publicly operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.
11. **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.

12. **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:
 - a. Adaptation to living with, or rehabilitation from, the handicaps of physical disability.
 - b. 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.
 - c. Rehabilitation from the effects of drug or alcohol abuse.
 - d. Supervision while under a program alternative to imprisonment, including but not limited to pre-release, work-release, and probationary programs.
13. **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.
14. **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.
15. **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.
16. **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.
17. **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.
18. **Park and Recreation Services:** Publicly-owned and operated parks, playgrounds, recreation facilities, and open spaces.
19. **Postal Facilities:** Postal services, including post offices, bulk mail processing or sorting centers operated by the United States Postal Service.
20. **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.

21. **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.
22. **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, child 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.
23. **Safety Services:** Facilities for conduct of public safety and emergency services including police and fire protection services and emergency medical and ambulance services.
24. **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.
25. **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.

1. **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.
2. **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 its primary financial institution is considered a "General Retail Services" Use Type.
3. **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.

1. **Adult Use, Entertainment Business:** Establishments as defined and related to the definition within in this Ordinance.
2. **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.
3. **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:
 - a. **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.
 - b. **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.
- c. **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.
 - d. **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.
 - e. **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.
 - f. **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.
4. **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.
 5. **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.
 6. **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.
 7. **Campground:** 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.

8. **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.
9. **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.
10. **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.
11. **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."
12. **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.
13. **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.
14. **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.
15. **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.
 - a. **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.

- b. **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.
 - c. **General Food Sales:** Establishments selling a wide variety of food commodities, using facilities larger than 10,000 square feet. Typical uses include supermarkets.
16. **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.
17. **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 Atkinson or the State of Nebraska.
18. **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 Atkinson 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 Atkinson and its immediate vicinity.

19. **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.
20. **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.
21. **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.
22. **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.
23. **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.
24. **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.
25. **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.
26. **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.
27. **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 Atkinson, 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.

28. **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.
 - a. **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.
 - b. **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.

308 Parking Use Types

1. **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.
2. **Parking Structure:** 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.

1. **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.
2. **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.

3. **Custom Manufacturing:** Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:
 - a. The use of hand tools, or
 - b. The use of domestic mechanical equipment not exceeding 2 horsepower, or
 - c. 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, and candle making shops.

4. **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.
5. **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.
6. **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.
7. **Recycling Collection:** Any site which is used in whole or part for the receiving or collection of any postconsumer, nondurable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.
8. **Recycling Processing:** Any site which is used for the processing of any postconsumer, nondurable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.
9. **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.
10. **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.

11. **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.
12. **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.
13. **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.

1. **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.
2. **Railroad Facility:** Railroad yards, equipment servicing facilities, and terminal facilities.
3. **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.
4. **Truck Terminal:** A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.

311 **Miscellaneous Type Uses**

1. **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.
2. **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.
3. **Communication Tower:** A tower, pole, or other similar structure that supports a telecommunications antenna or antenna used for the transmission or broadcast of radio, television, radar, or microwaves.

4. **Amateur Radio Tower:** A structure(s) for the transmission or broadcasting of electromagnetic signals by FCC-licensed Amateur Radio operators.
5. **Meteorological Tower:** A tower, pole, or other similar structure which carries measuring instruments for meteorological purposes, including but not limited to, thermometers and wind velocity measurers.
6. **Construction Batch Plant:** A temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects.
7. **Wind Energy System (WES):** Any device which converts wind energy to a form of usable energy, including wind charges, windmills, or wind turbines.
 - a. Non-Commercial Wind Energy Systems (Small). Shall mean a wind energy system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce onsite consumption of utility power.
 - b. Commercial/Utility Wind Energy Systems (Large). Shall mean a wind energy system of equal to or greater than 100 kW in total generating capacity.
8. **Landfill (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.
9. **Landfill (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.

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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>BASE ZONING DISTRICTS</u>	<u>DISTRICT NAMES</u>
AG	General Agricultural District
TA	Transitional Agricultural District
CN	Conservation and Open Space District
R-1	Single-Family Residential District
R-2	Multiple-Family Residential District
MH	Mobile Home Residential District
C-1	Highway Commercial District
C-2	Limited Commercial/Office District
C-3	Town Center District
I-1	Limited Industrial District
I-2	General Industrial District

OVERLAY AND SPECIAL DISTRICTS

PUD	Planned Unit Development District
FP/FW	Floodplain/Floodway Overlay District
HD	Historic District
P	Public Use District
A	Agricultural Business District
AH	Airport Hazard Area Overlay District

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.

Overlay districts may be applied to any lot or site or any portion thereof, in addition to a base district designation.

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 4-2, and shall represent a progression from the AG General Agricultural District as the least intensive to the I-2 General Industrial District as the most intensive. The Overlay Districts shall not be included in this reference.

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. The applicable Supplemental Regulations are noted in Table 4-2.

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 Atkinson 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 in this Ordinance. 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.

Table 4-1: Purposes of Zoning Districts

<u>Symbol</u>	<u>Title</u>	<u>Purpose</u>
AG	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 Atkinson extra-territorial jurisdiction.
TA	Transitional Agricultural District	This district provides for agricultural and very low density residential development in close proximity to developed urban areas. This district is designed to provide for the orderly transition of land use from agricultural or other open land uses to urban uses where appropriate. The district also accommodates developments that merge urban living with rural life. It generally does not permit agricultural uses that can have the greatest impact on adjacent, non-agricultural uses.
CN	Conservation and Open Space District	This district is designed to preserve environmentally or historically sensitive areas from encroachment by other land uses. CN Districts preserve areas of historical importance, protect wildlife habitats, and protect natural watercourses, drainageways, wetlands, and other important landforms from damaging development.
R-1	Single-Family Residential District	This district is intended to provide for medium-density residential neighborhoods, characterized by single-family dwellings on small to moderately sized lots with supporting community facilities. It provides special regulations to encourage innovative forms of housing development. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.
R-2	Multiple-Family Residential District	This district is intended to provide locations for a variety of housing types, including multiple-family housing, with supporting and appropriate community facilities. The district integrates some appropriate non-residential uses such as offices to permit the development of mixed-use neighborhoods.
MH	Mobile Home Residential District	This district recognizes that mobile home development, properly planned, can provide important opportunities for affordable housing. It provides opportunities for mobile home development within planned parks or subdivisions, along with the supporting services necessary to create quality residential neighborhoods.

Table 4-1: Purposes of Zoning Districts

<u>Symbol</u>	<u>Title</u>	<u>Purpose</u>
C-1	Highway Commercial District	This district accommodates a variety of commercial uses, some of which have significant traffic or visual effect. These districts 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. This district is most appropriately located along major arterial streets or in areas that can be adequately buffered from residential districts.
C-2	Restricted Commercial/ Office District	This district reserves appropriately located area for office development and a limited variety of low-impact commercial facilities that serve the needs of residents of surrounding residential communities. The commercial and office uses permitted are generally compatible with nearby residential areas. Development regulations are designed to ensure compatibility in size, scale, and landscaping with nearby residences.
C-3	Town Center District	This district is intended to provide appropriate development regulations for Downtown Atkinson. Mixed uses are encouraged within the C-3 District. The grouping of uses is designed to strengthen the town center’s role as a center for trade, service, and civic life.
I-1	Limited Industrial District	This district is intended to reserve sites appropriate for the location of industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development, while assuring that facilities are served with adequate parking and loading facilities.
I-2	General Industrial District	This district is intended to accommodate a wide variety of industrial uses, some of which may have significant external effects. These uses may have operating characteristics that create conflicts with lower-intensity surrounding land uses. The district provides the reservation of land for these activities and includes buffering requirements to reduce incompatibility.

Table 4-2: Permitted Uses by Zoning Districts

Use Types	AG	TA	CN	R-1	R-2	MH	C-2	C-3	C-1	I-1	I-2	P	Addl Reg
Agricultural Uses													
Crop Production	P	P	P	C	C						C		602
Horticulture	P	P	P				C		C		C		602
Livestock Sales	P												
Type I Animal Production	P	C											602
Type II Animal Production	C												
Type III Animal Production	C												
Civic Uses													
Administration		C		C	C	C	P	P	P	P	P	P	
Cemetery	C	C		C	C	C							
Clubs	C	C		C	C	C	P	P	P	P		P	604
College/University	C	C		C	C	C	P	P	P			P	
Convalescent Services		C		C	P	C	C	C	C	C		C	
Cultural Services	C	P		C	C	P	P	P	P	P		C	
Child Care (Ltd)	P	C		C	C	C	P	P	P	C	C	C	604
Child Care (Gen)	C	C		C	C	C	P	P	P	C	C	C	604
Detention Facilities	C	C											
Emergency Residential	P	P		P	P	P	P	P	C	C			
Group Care Facility	C	C					C	C	C	C	C		604
Group Home	C	C		C	C	C	C	C	C				604
Guidance Services				C	C	C	P	P	P	P	P	P	
Health Care	C	C		C	C	C	P	P	P	P	P	P	
Maintenance Facilities	C	C							P	P	P	P	
Park and Rec	P	P	P	P	P	P	P	P	P	P	P	P	
Postal Facilities							P	P	P	P	P	P	
Primary Education	C	P		P	P	P	P	C	C			P	
Public Assembly							C	P	P	P		P	
Religious Assembly	C	P		C	C	C	P	P	P	P	P	P	
Safety Services	P	P		C	C	C	P	P	P	P	P	P	
Secondary Education		C		C	C	C	C	C	C			P	
Utilities	P	C	C	C	C	C	P	P	P	P	P	C	

P=Uses Permitted by Right C= Permitted by Conditional Use Permit Blank=Use Not Permitted

Table 4-2: Permitted Uses by Zoning Districts

Use Types	AG	TA	CN	R-1	R-2	MH	C-2	C-3	C-1	I-1	I-2	P	Addl Reg
Commercial Uses													
Ag Sales/Service	C	C					C	C	P	P	P		
Auto Rental/Sales	C	C					C	C	P	P	P		605
Auto Services	C	C					C	C	P	P	P		605
Body Repair	C	C					C	P	C	P	P		605
Equipment Rent/Sales	C	C					C	C	P	C	P		605
Equipment Repair	C	C					C	C	P	P	P		605
Vehicle Storage (Short-term)	C	C					C	C	C	P	P		
Bed and Breakfast	C	C		C	P	C	P	P	P				605
Business Support Services							P	P	P	P	P		
Business/Trade School	C	C						P	P	P	P	P	
Campground	C	C	C						C				605
Cocktail Lounge								P	P	C	C		
Commercial Rec (Indoor)	C	C					C	P	P	P	P		
Commercial Rec (Outdoor)	C	C							P	P	P		
Communication Service	C	C					P	P	P	P	P		
Construction Sale/Service	C	C					C	C	P	P	P		
Consumer Service	C	C					P	P	P	P	P		
Convenience Storage	C	C					C	C	P	P	P		605
Food Sales	C	C					P	P	P	P	P		
Funeral Service							P	P	P	P	P		
General Retail Services							P	P	P	P	P		
Kennels	C	C							C				
Laundry Services							C	P	P	P	P		
Liquor Sales		C						P	P	C	C		
Lodging	C	C					C	P	P	P	C	C	
Personal Improvement	C	C		C	C		P	P	P	P	P	C	
Personal Services	C	C		C	C		P	P	P	P	P		
Pet Services	C	C					P	P	P	P	P		
Research Services	C	C					P	P	P	C	C		
Restaurants (Drive-in)	C	C					C	C	P	P	P		605
Restaurants (General)	C	C					P	P	P	C	P		605
Restricted (Adult) Business							C	C	C				605

P=Uses Permitted by Right C= Permitted by Conditional Use Permit Blank=Use Not Permitted

ZONING DISTRICT REGULATIONS

Table 4-2: Permitted Uses by Zoning Districts

Use Types	AG	TA	CN	R-1	R-2	MH	C-2	C-3	C-1	I-1	I-2	P	Addl Reg
Stables	P												
Surplus Sales								P	P	P	P		
Trade Services	C	C		C	C		C	P	P	P	P		
Veterinary Services	P	C						C	C	C	C		
Gaming Facility							C	C	C	C	C		
Industrial Uses													608
Agricultural Industry	C										C		
Construction Yards	C	C						C	C	C	P		
Custom Manufacturing	C	C						C	C	P	P		
General Industry										C	P		
Heavy Industry											C		
Light Industry	C	C						P	C	P	P		
Recycling Collection	C							C	C	P	P	P	
Recycling Processing	C	C								P	P		
Resource Extraction	C										C		606
Salvage Services											C		606
Veh. Storage (Long-term)										P	P		
Warehousing (Enclosed)	C	C						C	C	P	P		
Warehousing (Open)	C									C	P		
Office Uses													
General Offices				C	C	C	P	P	P	P	P		
Parking Uses													
Off-Street Parking	C	C					P	P	P	P	P		Article 9
Residential Uses													
Downtown Residential								P					603
Duplex	C	C		P	P	C	C	C					
Group Residential	C	C			P		P	C					
Manufactured Housing Residential	P	P	C	P	P	P	C	C					
Mobile Home Park						P							603
Mobile Home Subdivision						P							603
Multiple-Family	C	C		C	P	C	C	C					
Retirement Residential		C	C	C	P		C	C					
Single-Family Attached	C	C		P	P	P	C	C					603

P=Uses Permitted by Right C= Permitted by Conditional Use Permit Blank=Use Not Permitted

Table 4-2: Permitted Uses by Zoning Districts

Use Types	AG	TA	CN	R-1	R-2	MH	C-2	C-3	C-1	I-1	I-2	P	Addl Reg
Single-Family Detached	P	P	C	P	P	P	C	C					
Townhouse	C	C		C	P	C	C	C					603
Two-Family	C	C		P	P	C	C	C					
Transportation Uses													
Aviation	C								C				
Railroad Facilities	C	C								P	P		
Transportation Terminal	C							P	P	P	P		
Truck Terminal											P		
Miscellaneous Uses													
Broadcasting Tower	C	C		C	C	C	C		C	C	C		
Amateur Radio Tower	P	P		C	C	P	P	P	P	P	P		
Communication Tower	P	C		C	C	C	C	C	C	C	P		
Meteorological Tower	P	C		C	C	C	C	C	C	C	P		
Construction Batch Plant	C	C									C		
Non-Commercial WES (Small)	P	P		C	C	C	C		C	C	C		
Commercial WEC (Large)	C										C		
Landfill (Non-Putrescible)	C	C											
Landfill (Putrescible)	C										C		
Alternative Energy Production Devices	P	P		C	C	C	C		C	P	P		

Note: Provisions of Sections 608 through 613 apply to all these types.

P=Uses Permitted by Right C= Permitted by Conditional Use Permit Blank=Use Not Permitted

Table 4-3: Summary of Site Development Regulations

Regulator	AG	TA	CN	R-1	R-2
Minimum Lot Area (square feet)	5 Acres	Note 1	NA	7,000	7,000
Minimum Lot Width (feet)	300	Note 2	NA	50	50
Site Area per Housing Unit (square feet) by type of residential					
Single-Family				7,000	7,000
Two-family, Duplex	5 Acres	Note 1	5 Acres	6,000	3,850
Other				6,000	2,000
Minimum Yards (feet)					
Front Yard (Note 5, 6)	50	35	50	20	20
Street Side Yard	25	20	25	8	8
Interior Side Yard	15	15	25	(Notes 3,4)	(Notes 3,4)
Rear Yard	50	25	50	8	8
Maximum Height (feet)	NA	36	NA	36	36
Maximum Building Coverage	NA	30%	10%	60%	60%
Maximum Impervious Coverage	NA	40%	15%	70%	70%

-Notes Accompanying This Table Appear on Page 4-10-

Table 4-3: Summary of Site Development Regulations

Regulator	MH	C-2*	C-3*	C-1*
Minimum Lot Area (square feet)	2 Acres	5,000	None	5,000
Minimum Lot Width (feet)	100	50	NA	50
Site Area per Housing Unit (square feet)				
Single-Family	4,000	7,700	7,700	NA
Two-family, Duplex	4,000	3,850	3,850	NA
Other	4,000	2,000	2,000	NA
Minimum Yards (feet)				
Front Yard (Note 5, 6)	35	15	0	15
Street Side Yard	35	15	0	15
Interior Side Yard	35	10	0	0
Rear Yard	35	15	0	10
Maximum Height (feet)	36	45	No Limit	75
Maximum Building Coverage	NA	50%	100%	70%
Maximum Impervious Coverage	50%	70%	100%	90%

* Uses in the C-2, C-3, and C-1 Districts are subject to landscape and screening provisions contained in Article 8

-Notes Accompanying This Table Appear on Page 4-10-

Table 4-3: Summary of Site Development Regulations

Regulator	I-1*	I-2*
Minimum Lot Area (square feet)	5,000	5,000
Minimum Lot Width (feet)	50	50
Site Area per Housing Unit (square feet)	NA	NA
Minimum Yards (feet)		
Front Yard (Note 5, 6)	25	15
Street Side Yard	15	15
Interior Side Yard	10	0
Rear Yard	15	10
Maximum Height (feet)	75	75
Maximum Building Coverage	70%	85%
Maximum Impervious Coverage	90%	100%

* Uses in the I-1 and I-2 Districts are subject to landscape and screening provisions contained in Article 8

-Notes Accompanying This Table Appear on Page 4-10-

Notes to Preceding Pages: Table 4-3

Note 1:

12,000 square feet for single-family residential connected to common water and sewer systems; 5 acres for single-family residential not so connected and for all other uses.

Note 2:

80 feet for single-family residential connected to common water and sewer systems; 300 feet for single-family residential not so connected and for all other uses.

Note 3:

8 feet for the first story, 4 feet for each additional story.

Note 4:

See Section 603 for supplemental regulations regarding modifications of lot width for townhouse residential use type.

Note 5:

Front yard setbacks may vary if designated with special designator. This designator will be indicated on the official zoning map by the required minimum setback in parentheses following the zoning district symbol. For example, an R-1(30) district requires a 30-foot front yard setback.

Note 6:

On streets designated as part of the Atkinson’s TEA-21-eligible System, front yard setbacks shall be 50 feet from the right-of-way line of a county road or highway; or 100 feet from the right-of-way line of a US or State-designated highway, unless permission for a lesser setback is obtained from the County Surveyor or the Nebraska Department of Roads.

5 ARTICLE FIVE

SPECIAL AND OVERLAY DISTRICTS

501 General Purpose

Special Districts provide for base districts that allow multiple land uses and flexible development, with the requirement that a specific plan for the area be submitted by applicants. Overlay Districts are used in combination with base districts to modify or expand base district regulations. Overlay Districts are adapted to special needs of different parts of the City of Atkinson.

The Overlay Districts are designed to achieve the following objectives:

1. To recognize special conditions in specific parts of the City which require specific regulation.
2. To provide flexibility in development and to encourage innovative design through comprehensively planned projects.

PUD – PLANNED UNIT DEVELOPMENT DISTRICT

502 Purpose

The PUD Planned Unit Development Overlay District is intended to provide flexibility in the design of planned projects; to permit innovation in project design that incorporates open space and other amenities; and to insure compatibility of developments with the surrounding urban environment. The PUD District may be used in combination with any base district specified in this Ordinance. The PUD District, which is adopted by the City Council with the recommendation of the Planning Commission, assures specific development standards for each designated project.

503 Permitted Uses

Uses permitted in a PUD Overlay District are those permitted in the underlying base district.

504 Site Development Regulations

Site Development Regulations are developed individually for each Planned Unit Development District but must comply with minimum or maximum standards established for the base district, with the following exceptions:

1. Lot area and lot width are not restricted, provided that the maximum density allowed for each base district is not exceeded.
2. Maximum building coverage shall be the smaller of the allowed building coverage in the base district, or 60 percent.

505 Access to Public Streets

Each PUD District must abut a public street for at least 50 feet and gain access from that street or right-of-way.

506 Application Process

1. Development Plan

The application for a Planned Unit Development District shall include a Development Plan containing the following information:

- a. A tract map, showing site boundaries, street lines, lot lines, easements, and proposed dedications or vacations.
- b. A land use plan designating specific uses for the site and establishing site development regulations, including setback height, building coverage, impervious coverage, density, and floor area ratio requirements.
- c. A site development and landscaping plan, showing building locations, or building envelopes; site improvements; public or common open spaces; community facilities; significant visual features; and typical landscape plans.
- d. A circulation plan, including location of existing and proposed vehicular and pedestrian, facilities and location and general design of parking and loading facilities.
- e. Schematic architectural plans and elevations sufficient to indicate a building height, bulk, materials, and general architectural design.
- f. A statistical summary of the project, including gross site area, net site area, number of housing units by type, gross floor area of other uses, total amount of parking, and building and impervious surface percentages.

507 Adoption of District

1. The Planning Commission and City Council shall review and evaluate each Planned Unit Development application. The City may impose reasonable conditions, as deemed necessary to ensure that a PUD shall be compatible with adjacent land uses, will not overburden public services and facilities and will not be detrimental to public health, safety and welfare.
2. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.
3. The Planning Commission may recommend amendments to PUD district applications.
4. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
5. The City Council, after proper notice, shall hold a public hearing and act upon any Ordinance establishing a PUD Planned Unit Development Overlay District. Proper notice shall mean the same notice established for any other zoning amendment, as set forth in this Ordinance.

6. An Ordinance adopting a Planned Unit Development Overlay Zoning District shall require a favorable simple majority of the City Council for approval.
7. Upon approval by the City Council, the Development Plan shall become a part of the Ordinance creating or amending the PUD District. All approved plans shall be filed with the City Clerk.

508 Amendment Procedure

Major amendments to the Development Plan must be approved according to the procedure set forth in these Regulations.

509 Building Permits

The City shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within a PUD District unless it is in compliance with the approved Development Plan or any approved amendments.

510 Termination of PUD District

If no substantial development has taken place in a Planned Unit Development District for three years following approval of the District, the Planning Commission shall reconsider the zoning of the property and may, on its own motion, initiate an application for rezoning the property. Substantial development is defined as substantial completion of at least 25% of the proposed development.

FP/ FW – FLOODPLAIN/ FLOODWAY OVERLAY DISTRICT

511 Purpose

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

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 that serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands that are unsuitable 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 when identified by the Federal Insurance Administration as a flood prone community.

512 Floodplain and Floodway Overlay Districts: Findings Of Fact**1. Flood Losses Resulting from Periodic Inundation**

Flood hazard areas of the City of Atkinson, Nebraska, are subject to inundation that results in loss of life or 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.

a. General Causes of These Flood Losses

These flood losses are caused by (a) the cumulative effect of obstruction in floodways causing increases in flood heights and velocities, (b) the occupancy of flood areas by uses vulnerable to floods or hazardous to other which are inadequately elevated or otherwise protected from flood damages.

b. Methods Used to Analyze Flood Hazards

This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

- i. Selection of a base flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated and the depth of inundation. The base flood selected for this ordinance is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one (1 %) percent chance of occurrence in any one year, as delineated in the Flood Insurance Study dated July 16, 1980, and the Federal Emergency Management Administration's Flood Insurance Rate Maps and Flood Boundary and Floodway Map dated January 16, 1981, and the State of Nebraska study dated January, 1970, or any subsequent effective Flood Insurance Studies, Rate Maps, and Flood Boundary and Floodway Maps issued after the effective date of this ordinance and adopted by the City of Atkinson.
- ii. Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
- iii. Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.
- iv. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
- v. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the base flood.

2. Land to Which Ordinance Applies

This ordinance shall apply to all lands within the jurisdiction of the City of Atkinson identified on the Flood Insurance Rate map (FIRM) as numbered

and unnumbered A zone and/or within the Overlay Districts FP and FW established in this ordinance. In all areas covered by this ordinance, no development shall be permitted except upon a permit to develop granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community as contained in the City Code.

3. Enforcement Officer

The Building Inspector of the City of Atkinson is hereby designated as the City Council's duly designated Enforcement Officer under this ordinance. Unless otherwise provided by the City Council, the Upper Elkhorn Natural Resources District shall assist the City of Atkinson on interpretation of floodplain/floodway rules and regulations. The Enforcement Officer shall obtain comments from the NRD as part of his/her review of all proposed activity in this Overlay District.

4. Rules for Interpretation of District Boundaries

The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment will resolve the dispute. The base flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

5. Compliance

No development located within known flood hazard areas of the community shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

6. Abrogation and Greater Restrictions

It is not intended by this ordinance to repeal, abrogate or impair any existing 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.

7. 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 statute.

8. 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 floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Atkinson 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.
9. 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.
10. Application for Appeal
Where a request for a permit to develop is denied by the Building Inspector, the applicant may apply for such permit or variance directly to the Board of Adjustment. The Board of Adjustment may grant or deny such request by appropriate resolution adopted within 10 days after the date of such application to the Board of Adjustment.

513 Floodplain and Floodway Permits and Administration

1. Permit Required
No person, firm, or corporation shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in this Article.
2. Administration
 - a. The Building Inspector is hereby appointed to administer and implement the provisions of this ordinance.
 - b. Duties of the Building Inspector shall include, but not be limited to:
 - i. Review of all development permits to assure that sites are reasonable, safe from flooding and that the permit requirements of this ordinance have been satisfied.
 - ii. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or Local Governmental agencies from which prior approval is required.
 - iii. Notify adjacent communities and the Nebraska Natural Resources Commission Flood Plan Management Section prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Insurance Administration when participating in the National Flood Insurance Program.

- iv. Notify the Natural Resources District Floodplain Management Section of any proposed construction and development activity in floodplain areas, and/or upon land situated within the Floodplain/Floodway Overlay Zoning District.
 - v. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 - vi. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
 - vii. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.
 - viii. When floodproofing is utilized for a particular structure, the Building Inspector shall be presented certification from a registered professional engineer or architect.
3. Application for Permit
To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
- a. Identify and describe the work to be covered by the permit.
 - b. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
 - c. Indicate the use or occupancy for which the proposed work is intended.
 - d. Be accompanied by plans for the proposed construction.
 - e. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
 - f. Give such other information as reasonably may be required by the Building Inspector.

514 Establishment of Zoning Districts

The mapped flood plain area within the jurisdiction of this ordinance are hereby divided into the two following districts: A Floodway Overlay District (FW) and a Floodplain Overlay District (FP) as identified in the official Flood Plain Study. Within these districts, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM when identified in the Flood Insurance Study provided by the Federal Insurance Administration.

515 Standards for Floodway Overlay District and Floodplain Overlay District

1. No permit for development shall be granted for new construction, substantial improvement or other improvements including the placement of manufactured homes within the identified flood plain unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A Zones by the Federal Insurance Administration are subject to inundation of the 100-year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this ordinance. If Flood Insurance Study Data is not available, the community shall utilize any base flood elevation data currently available within its area of jurisdiction. Further, in cases of proposed development within unnumbered "A" zones, the developer's engineer shall be required to conduct the necessary studies to determine the 100 year flood elevation and its extent in relation to such development.
3. New construction, subdivision proposals, substantial improvement, prefabricated buildings, placement of manufactured homes and other development shall require:
 - a. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effect of buoyancy.
 - b. New or replacement water supply systems and/or sanitary sewage systems designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
 - c. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - d. All utility and sanitary facilities be elevated or floodproofed one foot above the regulatory flood elevation. Such floodproofing is permitted only for non-residential properties.
 - e. That until a floodway has been designated, no development including landfill, may be permitted within the identified flood plain unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than one (1') foot on the average cross-section of the reach in which the development or landfill is located as shown in the official flood plain study incorporated by reference herein.
 - f. Storage of Materials and Equipment:
 - i. The storage of processing of materials that are in time of flooding buoyancy, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

- ii. Storage of other materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
- g. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that:
 - i. All such proposals are consistent with the need to minimize flood damage.
 - ii. All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage.
 - iii. Adequate drainage is provided so as to reduce exposure to flood hazards.
 - iv. Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, include within such proposals the regulatory flood elevation.

516 Floodplain Overlay District: Regulations

1. Permitted Uses
Any use permitted in the underlying base district shall be permitted in the Floodplain Overlay District. No use shall be permitted in the district unless the standards of this Article are met.
2. Standards for the Floodplain Overlay District
 - a. Any new construction or substantial improvements of residential structures shall have the lowest floor, including basement elevated one foot above the base flood elevation.
 - b. Any new construction or substantial improvements of non-residential structures shall have the lowest floor, including basement, elevated one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in this Article. Such floodproofing is permitted only for non-residential properties.
 - c. All new construction and substantial improvements that fully enclosed areas below the lowest floor that are subject to flooding shall be designated to automatically equalize hydro-static flood forces or exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by the 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 square inch for every square foot of enclosed area

subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot 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.

- d. Within AH zones, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- e. Manufactured Homes:
 - i. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - (i) Over -the-top ties shall be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.
 - (ii) 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 50 feet long requiring four additional ties per side.
 - (iii) All components of the anchoring system shall be capable of carrying a force of 4800 lbs.
 - (iv) Any additions to manufactured homes shall be similarly anchored.
 - ii. All manufactured homes to be placed within Zones AL-30, AH and AE on the community's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of the Uniform Building Code.

3. AO Zones: Special Regulations

Located within the areas of special flood hazard are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. Therefore, the following provisions apply with AO Zones:

- a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as 1 foot above the depth number specified in feet on the community's FIRM.
- b. All new construction and substantial improvements of nonresidential structures shall:

- i. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as 1 foot above the depth number specified in feet on the community's FIRM; or
- ii. Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. Such certification shall be provided to the official as set forth in this Article.
- iii. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

517 Floodway Overlay Districts

1. Permitted Uses

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and provided that they do not require structures fill or storage of materials or equipment. No use shall increase the flood levels of the base flood elevation. These uses are subject to the standards of this Article.

- a. Agricultural uses such as general farming, pasture, nurseries, forestry.
- b. Accessory residential uses such as lawns, gardens, parking and play areas.
- c. Nonresidential areas such as loading areas, parking, and airport landing strips.
- d. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves. New placement of residential structures including manufactured homes is prohibited with the identified floodway (FW) area.
- e. In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through Federal, State or Local sources in meeting the standards of this section.

518 Request For Variances From District Requirements

- 1. The Board of Adjustment, as established by the City of Atkinson, shall hear and decide appeal and requests for variances from the requirements of this ordinance.
- 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 Building Inspector 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 Nebraska Statutes.

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 of life and property due to flooding or erosion damage.
 - c. The susceptibility of proposed facility and its contents 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 to the comprehensive plan and flood plain management program for that area.
 - i. The safety of access to the property in time of flood for ordinance and emergency vehicles.
 - j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effect of wave action, if applicable, expected at the site.
 - k. 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.
5. Conditions for Variance
 - a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one half acre of less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level providing terms 2. through 6. below have been fully considered. As the lot size increases beyond the one-half acre, the technical jurisdiction required for issuing the variance increases.
 - b. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
 - c. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - e. 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 the 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 laws or ordinances.

- f. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

519 Zoning Regulations For Nonconforming Uses

1. Continuance of Nonconforming Uses

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

- a. No such use or substantial improvement of that use shall be expended, changed, enlarged, or altered in a way which increases its nonconformity.
- b. 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 Building Inspector in writing of instances of nonconforming uses where utility services have been discontinued for a period of twelve (12) months.
- c. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue a nonconforming uses.

2. Replacement of Residential Uses

If any residential nonconforming use of structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred within those areas identified as floodway (FW). 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.

3. Replacement of Non-Residential Uses

If any non-residential nonconforming use of structure is destroyed by any means, including flood, it should not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of 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.

520 Definitions

Unless specifically defined below, words or phrases used in 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.

521 A

1. **Actuarial Rates:** Or "risk premium rates" are those rates established by the Federal Insurance Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with 42 U.S.C. 4014 and the accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.
2. **Appeal:** A request for a review of the Building Inspector's interpretation of any provision of this ordinance or a request for a variance.
3. **Area of Shallow Flooding:** A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
4. **Area of Special Flood Hazard:** The land in the flood plain within a community subject to one percent or greater chance of flooding in any given year.

522 B

1. **Base Flood Elevation:** Elevation indicated in the official flood plain study as the elevation of the 100-year flood.
2. **Base Flood Protection Elevation:** An elevation one foot higher than the water surface elevation of the base flood.

523 C

1. **Channel:** A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow, thus, is that water which is flowing within the limits of a defined channel.
2. **Community:** Any state or area or political subdivision thereof which has authority to adopt and enforce flood plain management regulations for the area within its jurisdiction.

524 D

1. **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.

525 **E**

1. **Existing Construction:** (For the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing Construction" may also be referred to as "existing structures".

526 **F**

1. **Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters; (2) the unusual and rapid accumulation of runoff of surface waters from any source.
2. **Flood Insurance Rate Map (FIRM):** An official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.
3. **Flood Insurance Study:** The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.
4. **Flood Plain Management:** The operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to, emergency preparedness plan, flood control works, and flood plain management regulations.
5. **Flood Protection System:** Those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard". Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound engineering standards.
6. **Floodproofing:** Any combination of structural and non-structural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy.
7. **Floodplain (FP):** That area of the flood plain, outside of the floodway, that on an average is likely to be flooded once every 100 years (i.e. that has a one percent chance of flood occurrence in any one year.)
8. **Floodway (FW):** The channel of a river or other watercourse and the adjacent portion of the flood plain that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point assuming equal conveyance reduction outside the channel from the two sides of the flood plain.

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

527 **G**

528 **H**

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

529 **I**

530 **I**

531 **K**

532 **L**

1. **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.

533 **M**

1. **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 connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
2. **Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

534 **N**

1. **New Construction:** Structures for which the "start of construction or substantial improvement" is commenced on or after the effective date of the FIRM.

535 **O**

1. **100-Year Flood:** The base flood having a one percent chance of annual occurrence.
2. **Overlay District:** A district which acts in conjunction with the underlying zoning district or districts

536 **P**

537 **Q**

538 **R**

539 **S**

1. **Start of Construction:** For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L97-348) includes substantial improvement, and means the date the building permit was issued, providing the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of street and/or walkways, nor does it include excavation for a basement, footings, or foundations or the erection of temporary forms, nor does it include the installation of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
2. **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.

3. **Substantial Improvement:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

540 **I**

541 **U**

542 **V**

1. **Variance:** A grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

543 **W**

544 **X**

545 **Y**

546 **Z**

HD – HISTORIC DISTRICT**547 Purpose**

The HD Historic Overlay District enables the adoption of special performance and development standards in combination with site development regulations of a base district for areas of special historical or architectural significance within the City of Atkinson. The District recognizes the importance of historically and architecturally significant districts to the character of Atkinson and provides for their conservation.

548 Procedure for Adoption**1. Proposal**

The creation of an HD Historic Overlay District may be initiated by the Planning Commission; the City Council; or by petition of the owner or owners of 51% of the property area within the proposed district.

2. Requirements for Application

An application for the creation of an HD Overlay District must include:

- a. A statement describing the proposed district's special historical or architectural characteristics and stating the reasons for proposal of the district
- b. A map indicating the boundaries of the proposed HD Overlay District, specifying the base district(s) included within these boundaries.
- c. An inventory of the buildings or historically important sites located within the boundaries of the proposed district.
- d. Supplemental site development regulations, design criteria, and performance standards that apply to the proposed district.

549 Adoption of District

1. The Planning Commission and City Council shall review and evaluate each HD Overlay District application.
2. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.
3. The Planning Commission may recommend amendments to HD district applications.
4. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
5. The City Council, after proper notice, shall hold a public hearing and act upon any Ordinance establishing an HD Historic Overlay District.
6. The Ordinance adopting the HD District shall include a statement of purpose, a description of district boundaries, and a list of supplemental site development regulations and performance standards.
7. An Ordinance adopting an HD Overlay District shall require a favorable vote of a simple majority of the City Council for approval.
8. Upon approval by the City Council, each HD Overlay District shall be shown on the Zoning Map, identified sequentially by order of enactment and referenced to the enacting Ordinance.

9. Any protest against an HD Overlay District shall be made and filed as provided by Section 14-405, Revised Statutes of Nebraska, 1943, and amendments thereto.

550 Building Permits

Building or other development permits issued by the City in an HD District shall follow procedures for review and approval established within the City's Historic Preservation Ordinance, should such an ordinance be adopted by the City of Atkinson.

551 Reserved

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P – PUBLIC USE OVERLAY DISTRICT

557 Purpose

The P Public Use Overlay District is designed to accommodate major public or civic facilities in the city. The district can be used in combination with one or more base districts. The district recognizes that development regulations that adapt to private development may not be appropriate for major public uses, including campus developments.

558 Permitted Uses

Uses permitted in a P Public Use Overlay District are those permitted in the underlying base district. A P Overlay District also may be combined with an MU Mixed Use District to allow a combination of use types not anticipated by conventional base districts.

559 Site Development Regulations

Site Development Regulations may be developed individually for each Public Use District, but must comply with the following minimum or maximum standards established for the base district:

Maximum Building Coverage
Maximum Impervious Coverage
Floor Area Ratio

560 Procedure for Adoption

1. Proposal
The creation of a P Public Use Overlay District may be initiated by the Planning and Zoning Commission or the City Council.
2. Requirements for Application
An application for the creation of a P Public Use Overlay District must include:
 - a. A map indicating the boundaries of the proposed P Overlay District, specifying the base district(s) included within these boundaries.

A – AGRICULTURAL BUSINESS OVERLAY DISTRICT**561 Purpose**

The A Agricultural Business Overlay District is intended to permit limited agricultural activities in combination with residential land uses. It recognizes the rural character of areas adjacent to Atkinson which may combine residential development at moderate densities with certain farm uses, including the raising of crops and animals, and the storage of agricultural products. It further recognizes that such uses should be strictly controlled in order to minimize effects on neighboring properties.

562 Application of District

This district may be used only in combination with the TA, R-1, or R-2 zoning districts.

563 Permitted Uses

In addition to those uses permitted in the base district, the following additional uses are permitted in the Agricultural Business Overlay District:

1. Horticulture
2. Crop Production
3. Type I Animal Production, subject to the following additional conditions:
 - a. Any new animal shelter, confinement facility, or animal unit shall require approval by the City Council through the Conditional Use Permit procedure, set forth in Article Twelve.
 - b. Any accessory facilities or shelters must be located at least 100 feet from any residences other than the principal residence on the property where such facilities or shelters are located; and at least 100 feet from any lot line of a property under different ownership.
4. Storage and sales of agricultural products, provided that a buffer of at least 30 feet is provided between this use and any adjacent lot within a residential zoning district.

564 Adoption of District

1. The Planning Commission and City Council shall review and evaluate each A Overlay District application.
2. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.
3. The Planning Commission may recommend amendments to A district applications.
4. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
5. The City Council, after proper notice, shall hold a public hearing and act upon any Ordinance establishing an A Overlay District.
6. The Ordinance adopting the A Overlay District shall include a statement of purpose, a description of district boundaries, and a list of supplemental site development regulations and performance standards.

7. An Ordinance adopting an A Overlay District shall require a favorable vote of a simple majority of the City Council for approval.
8. Upon approval by the City Council, each A Overlay District shall be shown on the Zoning Map, identified sequentially by order of enactment and referenced to the enacting Ordinance.
9. Any protest against an A Overlay District shall be made and filed as provided by Section 14-405, Revised Statutes of Nebraska, 1943, and amendments thereto.

AH – Airport Hazard Area Overlay District

565 Location, Boundaries, Zones, and Height Restrictions

The vicinity of the Stuart-Atkinson Municipal Airport, located in part of the Northwest Quarter (NW¼) and part of the Northeast Quarter (NE ¼) of Section 23, Township 30 North, Range 15 West, in Holt County, Nebraska, from the boundaries of such airport, to a distance of three(3) statute miles in all directions from the adjacent boundaries of the airport to the extent such property is located within the corporate or jurisdictional limits of the City, is hereby declared an airport hazard area and is hereby zoned as follows:

1. Hazard area description. The Hazard Area consists of Operation Zones, Approach Zones, Turning Zones and Transition 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.
2. Zone description.
 - a. The Operation Zones shall be located along each existing or proposed runway, landing strip, or other portion of the airfield used regularly, or to be used regularly, for the landing or taking off of airplanes and shall extend two hundred (200) feet beyond the ends of each existing or proposed runway. The Operation Zone is one thousand (1,000) feet wide, or five hundred (500) feet on either side of the runway centerline for each instrument runway or landing strip. The Operation Zone for all other runways and landing strips shall be five hundred (500) feet in width.
 - b. The Approach Zones shall extend from the end of each Operation Zone and is centered along the extended runway centerlines. The Approach Zone extend ten miles from the Operation Zone, is one thousand (1,000) feet wide at the end of the zone nearest the runway and expands uniformly, at a rate of thirty (30) feet of width for each one hundred (100) feet of horizontal length, to the extent of sixteen thousand eight hundred forty (16,840) feet wide at the farthest end of the zone.

The Inner and Outer Areas of each Approach Zone shall be that portion of the Approach Zone beginning at the end of the respective or proposed Operation Zone and extending as far as three (3) miles from the respective Operation Zone. The Inner Area of the Approach Zone shall be

the area extending seven thousand five hundred (7,500) feet from the Operation Zone to reach the maximum height of one hundred fifty (150) feet at the 1:50 slope. The Outer Area of the Approach Zone shall begin at the end of the Inner Area of the Approach Zone and extend as far as three (3) miles.

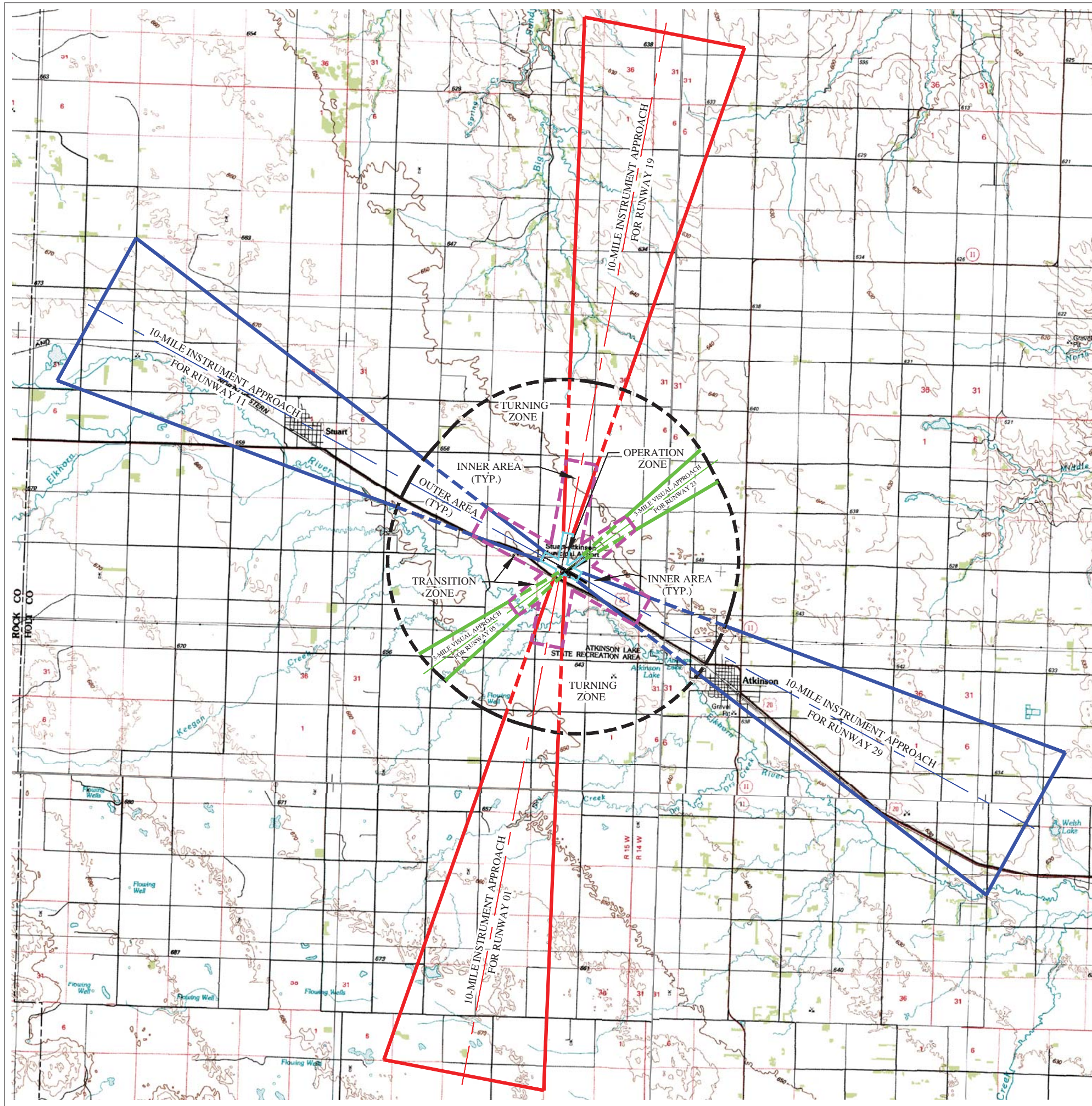
The Extended Area of each Approach Zone shall be the area between the outer limit of the Outer Area of the Approach Zone extending seven (7) miles from the Outer Area of the Approach Zone to create a total extension of ten (10) miles for the Approach Zone.

- c. The Transition Zone shall be a zone that extends outward, at a right angle to the runway centerline. The Transition Zone shall extend seven (7) feet horizontally for every one (1) foot vertically and shall end at a height of one hundred fifty feet (150) above the highest elevation on the existing or proposed runway. The Transition Zone begins at the height limit of the adjacent Approach or Operation Zone.
 - d. The Turning Zones shall comprise all portions of the Hazard Area not contained in the Operation Zones, Approach Zones, or Transition Zones. The outer limits of the Turning Zones shall be a series of points forming a line which is the horizontal distance of three (3) statute miles from the nearest points along the airport property lines.
3. Height restrictions. No building, transmission line, communication line, pole, tree, smoke-stack, 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:
- a. The Operation Zone height limit 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.
 - b. The Inner Area Approach Zone height limit begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every fifty feet horizontally (1:50 slope) to a maximum of one hundred fifty (150) feet above the nearest existing or proposed instrument runway end elevation.
 - c. The Outer Area Approach Zone height limit is one hundred fifty (150) feet above the nearest existing or proposed instrument runway end elevation and remains at that height limit until the three (3) mile horizontal distance.
 - d. The Extended Area Approach Zone height limit begins at one hundred fifty (150) feet at the end of the Outer Area Approach Zone and continues to rise one foot vertically for every fifty feet horizontally (1:50 slope) until the ten (10) mile extent limit.
 - e. The Transition Zone's height limit rises one foot vertically for every seven feet horizontally (1:7 slope). The height limit begins at the height limit of the adjacent Operation and Approach Zones and ends at a height of one

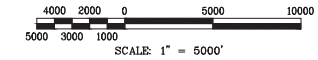
- hundred fifty (150) feet above the highest elevation on the existing or proposed runway.
- f. The Turning Zone has a height limit of one hundred fifty (150) feet above the height elevation on the existing or proposed runway.
4. Location sketch and zoning map. Boundaries, operation zones, approach zones, transition zones, and turning zones of said airport are as indicated on the Airport Zoning Map No. ZN-8V2-15, which accompanies and is hereby made a part of these regulations, a copy of which shall at all times be on file in the Office of the City Clerk, Atkinson, Nebraska.
 5. Permit required, exceptions, application forms and permit fees.
 - a. Permit required. It shall hereafter be unlawful to erect, construct, reconstruct, repair, or establish any building, transmission line, communication line, pole, tower, smoke-stack, chimney, wires, 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 area of said airport without first obtaining a "permit" from the Administrative Agency.
 - b. Exceptions. In the Outer Area of Approach Zones and within the Turning Zones, no permit shall be required for any construction or planting which is not higher than seventy-five (75) feet above the elevation of the end of the nearest runway or landing strip.
 - c. Application forms. Application for a permit as required under these regulations shall be made upon a form to be available in the City Office of the City of Atkinson, 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)
 6. Non-conforming structures. Within the zoned area as herein before defined, no non-conforming building, transmission line, communication line, pole, tree, smoke-stack, 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 thirty (30) percent or more of their original condition, or abandoned for a period of twelve 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 zone regulated.
 7. Marking of non-conforming structures. Whenever the Administrative Agency shall determine, or shall be notified by the Nebraska Department of Aeronautics, that a specific non-conforming structure or object exists and has existed prior to the passage of these regulations and within the 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 lessor or lessors of the premises on which such structure or object is located shall be notified in writing by the said Administrative Agency and shall within a reasonable time, permit the marking thereof by suitable lights or other signals designated by the Administrative Agency and based on the recommendations of the Nebraska Department of Aeronautics. The cost of such marking shall not be assessed against the owner or lessor of said premise.

8. Administrative agency. The City Council of the City of Atkinson, Nebraska shall administer and enforce these regulations, and shall be the Administrative Agency provided for in Section 3-319, of the Nebraska Revised State Statutes, and shall have all the powers and perform all the duties of the Administrative Agency as provided by the Airport Zoning Act.
9. Zoning board of adjustment. The Zoning Board of Adjustment of the City of Atkinson, Nebraska, shall be the Board of Adjustment with respect to these regulations, to have and exercise the powers conferred by Section 3-320, of the Nebraska Revised State Statutes, and such other powers and duties as are conferred and imposed by law.

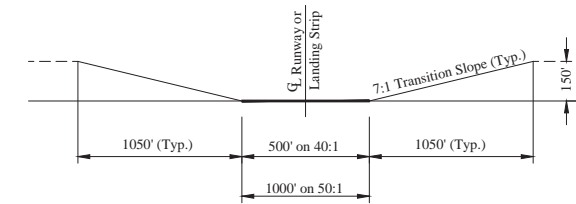


MAGNETIC DECLINATION
6 18' JANUARY 2005
ANNUAL RATE OF CHANGE:
07 23' West Year
SOURCE: USGS MODEL US-2000

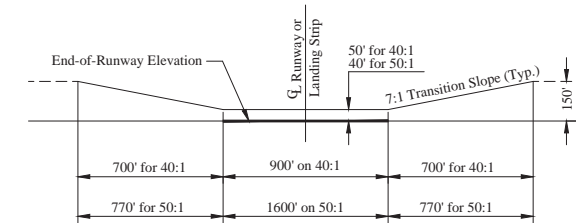


ARP (Airport Reference Point) COORDINATES:
Existing
Latitude = 42° 33' 45.83" Longitude = 99° 02' 19.34"
Ultimate
Latitude = 42° 33' 52.26" Longitude = 99° 02' 24.03"

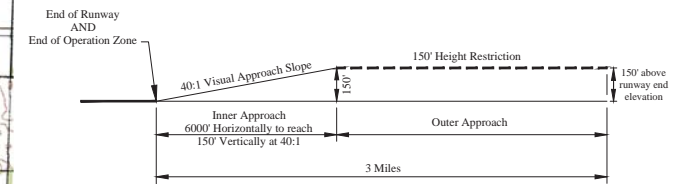
GRADE ELEVATIONS AT RUNWAY ENDS (AMSL)
Runway 01 = 2126.2 ft (u) Runway 19 = 2133.5 ft (u)
Runway 05 = 2122.5 ft Runway 23 = 2128.1 ft
Runway 11 = 2131.2 ft Runway 29 = 2126.1 ft



TYPICAL TRANSVERSE CROSS SECTION
ALONG OPERATION ZONE

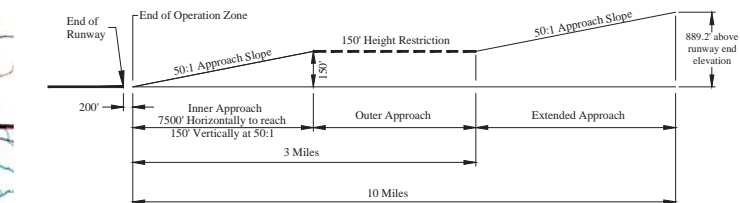


TYPICAL CROSS SECTION OF APPROACH ZONE
AT A POINT 2000' FROM END OF OPERATION ZONE.



TURF RUNWAY
APPROACH ZONE PROFILE

(for Existing or Proposed Turf Runway)
(Not to scale. Dashed line indicates a Height Restriction of 150' above the runway end elevation)



INSTRUMENT RUNWAY
APPROACH ZONE PROFILE

(for Existing or Proposed Instrument Runway)
(Not to scale. Dashed line indicates a Height Restriction of 150' above the runway end elevation)

LEGEND

(dashed lines indicate 150' Height Restriction)

- APPROACH ZONES
 - 11/29 (Blue solid line)
 - (Future Paved) 01/19 (Red solid line)
 - (Existing Turf) 05/23 (Green solid line)
- OPERATION ZONE (Blue solid line)
- TRANSITION ZONE (Dashed line)
- 3-MILE ZONE (Black dashed line)

NOTE: In the Turning Zone, any object higher than 150' above the highest point of any existing or proposed runway is considered an obstruction.

AIRPORT ZONING MAP

STUART-ATKINSON
MUNICIPAL AIRPORT
ATKINSON, NEBRASKA

NEBRASKA DEPARTMENT
OF AERONAUTICS - DIVISION
ENGINEERING
P.O. BOX 82088
LINCOLN, NE 68501-2088
OFFICE: (402) 471-2371 FAX: (402) 471-2906

APPROVED:	DATE:
REVISIONS:	DESCP.
BY:	DATE:
DWG. NO. ZN-8V2-15	

DRAWN BY:
KB
CHECKED BY:
DL

SCALE:
AS SHOWN
DATE:
04/15/15
SHEET NO.

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6 ARTICLE SIX

SUPPLEMENTAL USE REGULATIONS

601 Purpose

The Supplemental Use Regulations set forth additional standards for certain uses located within the various zoning districts. These regulations recognize that certain use types have characteristics that require additional controls in order to protect public health, safety, and welfare. These regulations complement the use regulations contained in Article Four of this Ordinance.

602 Supplemental Use Regulations: Agricultural Uses

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.

1. Horticulture and Crop Production: Retail Sales
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:
 - a. Garden Centers
 - i. 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.
 - ii. Garden centers must conform to all site development regulations for the zoning district.
 - iii. Any garden center adjacent to a residential district must maintain a 20-foot landscaped bufferyard, consistent with the standards established in Section 804.
 - b. Roadside Stands
 - i. 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.
 - ii. A roadside stand may be located within a required front yard but no closer than 40 feet to the edge of a traveled roadway.
 - iii. A roadside stand may operate for a maximum of 180 days in any one year.
2. Type I Animal Production in the TA District
 - a. Breeding and raising of small animals and fowl, such as birds, rabbits, chinchilla, and hamsters is permitted in the TA 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.
 - b. Within the TA District, any lot of 1 acre and over may maintain one horse, llama, or other equine and/or hooved 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.

3. Type II Animal Production
 - a. Location
 - i. Any new Type II Animal Production use established within one mile of the corporate limits of the City of Atkinson shall be subject to approval of a Conditional Use Permit, as set forth in this Ordinance.
 - ii. 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 1,000 feet of an existing residential structure other than that of the owner or operator of the facility.
 - b. Operation
 - i. 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.
 - ii. 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.
 - c. Drainage
 - i. All ground surfaces within confinement areas shall be graded and compacted to insure proper drainage.
 - ii. 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.
 - d. Pollution Control

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.
4. Type III Animal Production
 - a. Location
 - i. No new Type III Animal Production use shall be permitted within one mile of the corporate limits of the City of Atkinson.
 - ii. Any new Type III Animal Production use otherwise proposed within the extra-territorial jurisdiction of the City of Atkinson shall be subject to approval of a Conditional Use Permit, as set forth in this Ordinance.
 - iii. 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 1,000 feet of an existing residential structure other than that of the owner or operator of the facility.

- b. Operation
 - i. 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.
 - ii. 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.
- c. Drainage
 - i. All ground surfaces within confinement areas shall be graded and compacted to insure proper drainage.
 - ii. 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.
 - iii. 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.
- d. Pollution Control

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.
- e. General Standards
 - i. 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.
 - ii. In addition to other requirements, all applications for Conditional Use Permit, 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.

603 Supplemental Use Regulations: Residential Uses

- 1. Siding and Roofing materials for all residential structures and accessory structures within a residential district:
 - a. Siding and roofing materials shall be harmonious with the character of the neighborhood.
 - b. Any refurbished or restored materials used for roofing or siding materials shall be approved by the Building Inspector prior to installation.

- c. A building permit shall be obtained prior to the replacement of any siding or roofing materials IF the replacement material will be a different composition than what it was previously (i.e. asphalt to metal, wood to vinyl).
 - d. No use of unpainted or uncoated galvanized tin, “strong barn”, imperial ribbed, corrugated sheets or panels, or any other similar-type material. For the safety of vehicular traffic, metal siding or roofing must be painted or coated with an unobtrusive, non-reflective color.
2. Zero-Lot Line Single-Family Detached Residential
 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:
- a. The side yard opposite to the zero yard must equal at least twice the normal required side yard.
 - b. 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.
 - c. An easement for maintenance of the zero lot line facade is filed with the Holt County Register of Deeds and the City Clerk at the time of application for a building permit.
3. Single-Family Attached
 When permitted, the minimum side yard opposite the common wall shall be equal to twice the normal required side yard.
4. Townhouse Residential
 Where permitted, townhouse residential is subject to the following regulations:
- a. The site area per unit must be 6,000 square feet in the R-2 District and 2,000 square feet in all other districts where permitted.
 - b. The minimum width for any townhouse lot sold individually shall be 25 feet, except within an approved creative subdivision.
 - c. Coverage percentages are computed for the site of the entire townhouse common development.
5. Two-Family Residential
- a. The second dwelling unit shall be located to the rear of the site and shall be separated from the front dwelling unit by a minimum of 25 feet.
 - b. The second dwelling unit shall be served by a driveway at least ten feet in width, leading from a public street adjacent to the lot.
6. Downtown and Group Residential in C-3 District
 Downtown and Group Residential uses are permitted in the C-3 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 Planning Commission.

7. Mobile Home Parks in the MH District

In the MH Mobile Home Residential District, which permits mobile home residential use, such use may be configured in a Mobile Home Park or Mobile Home Subdivision. Following the effective date of this Ordinance, no mobile home shall be located outside of a Mobile Home Park or Mobile Home Subdivision. A Mobile Home Park is subject to approval of a Conditional Use Permit and compliance with the following regulations:

 - a. Certification

A certification of compliance with all ordinances and regulations regarding mobile home licensing, zoning, health, plumbing, electrical, building, fire protection and any other applicable requirements shall be required of all Mobile Home Parks.
 - b. Minimum and Maximum Area

A Mobile Home Park shall be considered to be one zoned lot. The contiguous area of a Mobile Home Park shall provide for a minimum of 10 mobile home spaces.
 - c. Density Requirements

These requirements allow for the provision of open space in addition to the individual mobile home spaces.

 - i. The minimum gross site area per dwelling unit in a Mobile Home Park or Subdivision shall be 7,200 square feet.
 - ii. The minimum size of an individual mobile home space shall be 4,000 square feet for single-wide mobile home units and 6,000 square feet for double-wide mobile home units.
 - iii. Each mobile home space shall have a width of at least 40 feet wide and a length of at least 75 feet.
 - d. Site Development Standards
 - i. Setbacks: Each Mobile Home Park shall have a minimum perimeter setback of 35 feet from all exterior lot or property lines. No space for a dwelling unit or any other structure shall be permitted in the required setback.
 - ii. Setback landscaping: All area contained within the required setbacks except sidewalks and private drives shall be landscaped and screened in conformance with Article 8 of this Ordinance. Screening shall be provided in conformance with Article 8 for any common property line with another non-residential use.
 - iii. Impervious Coverage: Impervious coverage for a Mobile Home Park shall not exceed 50 percent of the total site area.
 - iv. Open Space: Each Mobile Home Park shall provide a minimum of 400 square feet of open recreational space per unit. Such space shall be provided at a central location accessible from all parts of the park by pedestrians. Required perimeter setbacks or buffers shall not be credited toward the fulfillment of this requirement.
 - v. Separation between Mobile Home Units: The minimum separation between a mobile home unit and attached accessory structure and

- any other mobile home units and/or accessory structure shall be 25 feet.
- vi. Separation and Setbacks for Accessory Buildings: An accessory building on a mobile home space maintain a minimum rear and side yard setback of five feet. A minimum distance of ten feet shall be provided between any mobile home and an unattached accessory building.
 - vii. Storm Shelter: Each mobile home park or subdivision must provide a storm shelter(s) with sufficient capacity for all residents of the Mobile Home Park or subdivision.
- e. Street Access and Circulation Requirements
- i. Access to Public Street: Each Mobile Home Park must abut and have access to a dedicated public street with a right-of-way of at least 60 feet. Direct access to a mobile home space from a public street is prohibited.
 - ii. Vehicular Circulation: The Mobile Home Park must provide interior vehicular circulation on a private internal street system. Minimum interior street width shall be 25 feet. The street system shall be continuous and connected with other internal and public streets; or shall have a cul-de-sac with a minimum diameter of 90 feet. No such cul-de-sacs may exceed 300 feet in length.
 - iii. Separation between Units and Circulation Areas: The minimum distance between a mobile home unit and any attached accessory structure and the pavement of an internal street or parking area shall be 20 feet.
 - iv. Sidewalks: Each Mobile Home Park shall provide a sidewalk system to connect each mobile home space to common buildings or community facilities constructed for the use of its residents; and to the fronting public right of way. Sidewalk width shall be at least four feet.
 - v. Street and Sidewalk Standards: All internal streets and sidewalks shall be hard-surfaced. Electric street lighting is required along all internal streets.
 - vi. Parking Requirements: Each Mobile Home Park must provide at least two off-street parking stalls for each mobile home space.
- f. Utilities
- i. All Mobile Home Parks shall provide individual units and common facilities with an adequate, piped supply of hot and cold water for both drinking and domestic purposes; and standard electrical service, providing at least one 120-volt and one 240-volt electrical service outlet to each mobile home space.
 - ii. Complete sanitary and sewer service shall be provided within each Mobile Home Park in accordance with the Subdivision Chapter of the Land Development Ordinance.

- iii. Properly spaced and operating fire hydrants shall be provided for proper fire protection within each Mobile Home Park in accordance with the Subdivision Chapter of the Land Development Ordinance.
 - iv. All electric, telephone, gas, and other utility lines shall be installed underground.
 - g. Financial Responsibility: Each application for a Mobile Home Park shall include a demonstration by the developer of financial capability to complete the project; and a construction schedule.
 - h. Completion Schedule: Construction must begin on any approved Mobile Home Park within one year of the date of approval by the Planning and Zoning Commission. Such construction shall be completed within two years of approval, unless otherwise extended by the Commission.
 - i. All other uses and provisions of the Atkinson Mobile Home Park regulations are incorporated herein by reference. These provisions include tie-down and other structural requirements included in the Atkinson Municipal Codes.
- 8. Mobile Home Subdivisions in the MH District
 - a. Mobile Home Subdivisions shall be developed in accordance with all standards and requirements set forth in the Subdivision Chapter of the Land Development Ordinance of Atkinson. Site development regulations shall be the same as those required in the R-2 Zoning District. Each mobile home shall be considered a single-family detached residential unit for the purpose of determining applicable development regulations.
 - b. Mobile home units within Mobile Home Subdivisions shall be built in accordance with the minimum design standards of the US Department of Housing and Urban Development and display a certification of such compliance.

604 Supplemental Use Regulations: Civic Uses

- 1. Clubs

Clubs located adjacent to residential uses shall maintain a bufferyard of not less than 25 feet along the common boundary with such residential use.
- 2. Child Care

Child care facilities are permitted by Conditional Use Permit in the I-2 General Industrial Zoning District only if incidental to a permitted primary use.
- 3. Group Care Facilities and Group Homes
 - a. Each group care facility or group home must be validly licensed by either the State of Nebraska or the appropriate governmental subdivision.
 - b. Group homes are permitted in the C-3 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 Planning Commission.

4. Primary and Secondary Educational and Religious Assembly Facilities
 - a. Buildings and parking shall have a minimum setback of 25 feet from property lines.
 - b. Proposed facilities shall conform to all State and federal requirements.

605 Supplemental Use Regulations: Commercial Uses

1. Auto Repair, Equipment Repair, and Body Repair
 - 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.
2. Auto Washing Facilities
 - 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.
3. Automobile and Equipment Rental and Sales
 - 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.
4. Bed and Breakfasts

Bed and Breakfasts permitted in the C-3 District 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.
5. Campgrounds
 - a. Minimum Size: Each campground established after the effective date of this title shall have a minimum size of one acre.
 - b. Setbacks: All campgrounds shall maintain a 50-foot front yard setback and a 25-foot bufferyard from all other property lines.
 - c. 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.
6. Convenience Storage

When permitted in the AG, C-1, and L-1 Districts, convenience storage facilities shall be subject to the following additional requirements:

- a. The minimum size of a convenience storage facility shall be one-half acre.
 - b. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
 - c. All driveways within the facility shall provide a paved, gravel, or hard rock surface with a minimum width of 25 feet.
 - d. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
7. Restaurants
Restaurants in the C-2 District that include the accessory sale of alcoholic beverages require approval of a Conditional Use Permit, as set forth in this Ordinance.
8. Restrict (Adult Entertainment) Businesses.
All adult entertainment businesses shall be subject to the following restrictions, and no person shall cause or permit the establishment of any adult entertainment business contrary to said restrictions:
- a. No adult entertainment business shall be open for business between the hours of twelve midnight (12:00 a.m.) and six (6) a.m.
 - b. A new adult entertainment business shall not be allowed within one thousand (1,000) feet of another existing adult entertainment business.
 - c. A new adult entertainment business shall not be located within five hundred (500) feet of any residentially zoned district or one thousand (1,000) feet of a pre-existing school, public park, or place of worship.
 - d. The provisions of this chapter shall apply to any adult entertainment businesses in existence at the time the ordinance codified in this chapter takes effect. All nonconformance shall come into compliance on or before January 1, 2016, and no such nonconforming use shall be permitted to expand in size or scope and the rights granted in this chapter shall terminate upon cessation of business, sale, or transfer of ownership of the adult entertainment business.
 - e. Measurement of distances. For the purpose of this chapter, measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult entertainment business to the point on the property line of such other business, school, church, public park or areas zoned for residential use which is closest to the said main entrance of such adult entertainment business.
 - f. No adult entertainment business shall be conducted in any manner that permits the observation of models 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 entertainment business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the premises which is

prohibited by this code or any laws of the State of Nebraska or the United States.

- g. No part of the interior of the adult entertainment business shall be visible from any pedestrian sidewalk, walkway, street, or other public or semipublic area.
- h. An adult entertainment 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 is allowed on the premises. The sign shall comply with the City's sign regulations. This section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
- i. Nuisance Operation: Any adult entertainment business operated, conducted or maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance, and the City Attorney may, in addition to or in lieu of prosecuting a criminal action under this chapter, commence an action or actions, proceeding or proceedings, for the abatement, removal or enjoinder thereof, in the manner prescribed by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment business contrary to the provisions of this chapter.

606 Supplemental Use Regulations: Industrial Uses

1. Resource Extraction

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

- a. 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.
- b. Surface Drainage: The surface of the use may not result in the collection or ponding of water, unless specifically permitted by the City Council.
- c. Storage of Topsoil: Topsoil shall be collected and stored for redistribution following the end of the operation.
- d. Elimination of Hazards: Excavation shall not result in a hazard to any person or property. The following measures are required:
 - i. Restoration of slopes to a gradient not exceeding 33% as soon as possible.
 - ii. Installation of perimeter safety screening.
 - iii. Installation of visual screening adjacent to any property within a residential or public use district.
- e. 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.

2. Salvage Services
 - a. Screening:
 - i. 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 bufferyards.
 - ii. 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.
 - b. Storage of materials within any salvage services facility may not be higher than the height of the surrounding screen fence or wall.
 - c. 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, or within 1,000 feet of the nearest property line of a TA, R-1, R-2, or MH District.

607 Performance Standards for Industrial Uses

1. Industrial Uses in the I-1 District: Performance Standards
 The following performance standards apply to all industrial uses permitted within an L-1 Limited Industrial zoning district:
 - a. 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.
 - b. 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 the City of Atkinson or any applicable federal, state, county, or city statute or regulation.
 - c. 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.
 - d. 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.
 - e. 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.

- f. 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.
 - g. 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.
 - h. 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.
 - i. 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.
 - j. 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.
2. Industrial Uses in the I-2 District: Performance Standards
The following performance standards apply to all industrial uses permitted within an L-1 Limited Industrial zoning district:
- a. Physical Appearance: Salvage services and similar uses and operations shall be screened from view from both streets and adjacent non-industrial properties as provided by Sections 606(b) and 805.
 - b. Fire Hazard: All flammable substances involved in any activity established in the district shall be handled in conformance with the latest edition of the Fire Prevention Code published by the American Insurance Association, and other appropriate federal, state, and city statutes.
 - c. Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts: No operation in the I-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.
 - d. 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.

- e. **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.
- f. **Odor:** The emission of odors shall be controlled so as to minimize the escape of odors within the limits of technology or economic feasibility.
- g. **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.
- h. **Vibration:** All machines shall be mounted to minimize vibration.
- i. **Storage of Chemical Products:** Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of 25,000 gallons shall be located at least 250 feet from any structure intended for human habitation and at least 1,000 feet from any Residential, Office, or Commercial zoning district.

608 Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts

Table 6-1 displays the maximum permitted sound levels that may be generated by uses in the C-1, I-1, or I-2 zoning districts where adjacent to residential zoning districts. All measurements shall be taken at or within the boundary between the originating district and the adjacent residential zoning district with a sound level meter meeting ANSI specifications for a Type II or better general purpose sound level meter. The A-weighted response shall be used.

Table 6-1 Maximum Permitted Sound Levels at Residential Boundaries

<u>Originating Zoning District</u>	<u>Time</u>	<u>Maximum One Hour Leq* (dbA)</u>
C-1, I-1	7:00 a.m. - 10:00 p.m.	60
	10:00 p.m. - 7:00 a.m.	55
I-2	7:00 a.m. - 10:00 p.m.	65
	10:00 p.m. - 7:00 a.m.	55

* Leq is the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. It is the average sound level and accurately portrays the sound the human ear actually hears.

609 Supplemental Use Regulations: Miscellaneous Uses

1. Communication Towers
 - a. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the Federal government with the authority to regulate towers and antennas.
 - b. The placement of wireless telecommunication antennas or towers on water tower sites will be allowed only when the following additional requirements are met:
 - i. The applicant's access to the facility will not increase the risks of contamination to the City's water supply;
 - ii. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility;
 - iii. The presence of the facility will not increase the water tower or reservoir maintenance cost to the City; and
 - iv. The presence of the facility will not be harmful to the health of workers maintaining the water tower or reservoir.
 - c. In no case shall towers or antennas be allowed in designated prairie or other conservation or wildlife area unless they are to be installed in areas, which currently contain tower facilities or antennas, and in no case shall towers or antennas be allowed in areas without road access to the base of the tower, antenna support structure or facilities.
 - d. Tower setbacks shall be measured from the property line of the parcel on which it is located to the base of the tower. The setback shall not be less than one hundred ten percent (110%) of the tower height as measured from the ground level.
 - e. Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.
 - f. No signals, lights or signs shall be permitted on towers unless required by the FCC, the FAA, or the City. No banners or similar devices or materials may be attached to the towers, antenna support structure or antennas.
 - g. Ground level equipment, buildings, and the tower base shall be screened from public streets and residentially zoned properties and shall not encroach in the building setback. Landscaping shall be required to screen as much of the support structure as possible. The City may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

In the event the use of any tower or antenna has been discontinued for a period of sixty (60) consecutive days, the tower or antenna shall be deemed to be abandoned. Upon such abandonment, the operator of the tower or antenna shall dismantle and remove the tower or antenna. If such tower or

antenna is not removed within said sixty (60) days from the date of abandonment, the City may remove such tower or antenna, in accordance with applicable law, at the facility owner's expense.

2. Landfills

- a. Compliance with Codes: Each landfill must comply with all relevant city, county, State, or Federal codes and statutes.
- b. Prevention of Hazards: No facility shall present a hazard to surrounding residents or properties.
- c. Drainage and Water Supply: No landfill may modify or prevent the flow of major natural drainage ways within the jurisdiction of the City of Atkinson. 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.
- d. 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 or Federal Highway.
- e. 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.
- f. 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 Atkinson and its extra-territorial jurisdiction.

3. Meteorological Towers

All Meteorological Towers located within Atkinson's zoning jurisdiction shall conform to the following general standards:

- a. Shall be towers which are erected primarily to measure wind speed, direction, and record other data relevant to the site of a commercial WES.
- b. Meteorological towers, permanent or temporary, in excess of two hundred (200) feet in height, shall meet all FAA requirements and shall be required to apply for a permit prior to construction. Meteorological towers less than two hundred (200) feet in height shall have the guy wires clearly marked with devices common to overhead transmission lines and shall be required to apply for a permit prior to construction.
- c. Setbacks: Shall be 1.1 times the tower height for all meteorological towers. Tower setbacks shall be measured from the property line of the parcel on which it is located to the base of the tower.

4. Wind Energy Systems

All Wind Energy Systems located within Atkinson's zoning jurisdiction shall conform to the following general standards:

- a. Clearance of rotor blades or airfoils for commercial/utility Wind Energy Systems must maintain a minimum of twenty (20) feet of clearance between their lowest point and the ground. Noncommercial WES shall have a minimum clearance of twelve (12) feet between their lowest point and the ground.
- b. On site signage shall be limited to identification signs not to exceed six (6) feet and high voltage warning signs.
- c. All wind turbines part of a commercial/utility WES shall be installed with a monopole tower.
- d. All commercial/utility WES shall obtain a FAA permit and comply with all aviation warning requirements established by the FAA regulations and permit.
- e. All commercial/utility WES shall be white, grey or other neutral non obtrusive, non-reflective color. Blades may be black in order to facilitate deicing.
- f. All on site communication and transmission feeder lines installed as part of the commercial/utility WES shall be underground.
- g. Commercial/utility WES shall not exceed fifty (50) dba at the nearest occupied dwelling.
- h. Commercial/utility WES shall obtain FCC permits where necessary and provide evidence of permit approval.
- i. The commercial/utility WES applicant shall be responsible for immediate repair of damage to drainage or irrigation systems stemming from construction, operation or maintenance of the WES.
- j. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as oils, lubricants and solvents shall be removed from the site promptly and disposed of in accordance with all applicable local, State and Federal regulations.
- k. A commercial/utility WES shall provide a decommissioning plan to the City Council at the time application is made. The plan shall include the method or means of removing the WES and accessory facilities, parties responsible for removal and site cleanup, evidence of a damage insurance liability policy, schedule for removal not to exceed ninety (90) days from approval of the plan. The applicant shall set aside three-fourths (3/4) of one percent (1%) of each towers' cost for future decommissioning upon approval of the application by the City Council. The funds are to be placed in a cash escrow account with a local bank.
- l. The WES operation shall not interfere with radio, television, computer, or other electronic operations on adjacent properties.
- m. Aggregated projects may be jointly submitted as a single application and reviewed as a single application, including public notes, public hearing, and subsequent approvals or denials. Permits may be issued and recorded separately.

- n. Commercial/Utility Wind Energy Systems. All commercial/utility wind energy systems located within the jurisdiction of the City of Atkinson shall provide the following information the City of Atkinson for review:
- i. Name(s) of project applicant.
 - ii. Name(s) of project owner.
 - iii. Legal description of the project.
 - iv. Documentation of land ownership or lease of the property.
 - v. Site plan showing property lines, setbacks, proposed accessory buildings, wind turbine locations, transmission lines, adjacent subdivisions, homes or other structures, county and service roads, legend and scale, signature of surveyor or engineer.
 - vi. Narrative description of the project including number, type, generating capacity, tower height, rotor diameter, total height of all wind turbines including meteorological towers, height of transmission lines and capacity, lastly proposed users of project.
 - vii. Overview map of the area showing topography, location of WES owned or not owned by the applicant, public or private airfields within one mile of the proposed WES and other communication towers.
 - viii. An acoustical report that certifies the WES will meet the noise requirements of this ordinance.
 - ix. Evidence that other tower owners or lessees have been notified of the proposed WES and there will not be interference in communications.
 - x. An Environmental Assessment Worksheet shall be prepared by a qualified environmental engineering firm when a commercial WES is located within avian migratory routes. The Environmental Assessment Worksheet shall contain an avian assessment, map of the migratory routes and recommended mitigation practices.
 - xi. A decommissioning plan as required by this Ordinance.
 - xii. There shall be a flicker/strobe effect study provided.
 - xiii. Setbacks: Shall be one-half (1/2) of the blade diameter or 150 feet, whichever is greater. Setbacks shall be measured from the property line of the parcel on which it is located to the base of the WES.
 - xiv. A fence six feet high with a locking gate shall be placed around any WES tower base; or the tower climbing apparatus shall begin no lower than twelve feet above ground.
- o. Non-commercial Wind Energy Systems. All noncommercial wind energy systems located within the jurisdiction of the City of Atkinson shall conform to the following standards:
- i. Shall be systems installed to provide for full or partial onsite consumption of utility supplied electricity.
 - ii. Setbacks: Where allowed, Noncommercial WES shall be located in the rear yard of any Residential Districts. The setback shall be 1.1 times the tower height for all non-commercial wind energy

system. Setbacks shall be measured from the property line of the parcel on which it is located to the base of the WES.

- iii. Tower Height: In all districts except the Agricultural or Industrial Districts, tower heights shall not exceed thirty (30) feet. In the Agricultural or Industrial Districts there is no height limitation except that imposed by FAA regulations.
- iv. Noncommercial WES shall not exceed fifty (50) dba, as measured at the closest neighboring inhabited dwelling unit. Temporary exceptions may include severe wind storms or power outages requiring higher demand.

610 Supplemental Use Regulations: Infrastructure Improvements

- 1. 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.
- 2. 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.
- 3. 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.
- 4. 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.

611 Supplemental Use Regulations: CN Conservation and Open Space Districts

- 1. Special Permits for Land Disturbing Activities
The following land disturbing activities require prior submission of a report prepared by a Professional Engineer or other appropriate professional to the Building Inspector and the Upper Elkhorn Natural Resources District; and approval of a Conditional Use Permit, as set forth in this Ordinance.
 - a. Filling, dredging, or draining of any land or water area.
 - b. Encroachment upon any natural stream or floodway.
 The Conditional Use Permit shall provide that such actions are so limited or designed to minimize alterations or effects on natural conditions of rivers, woodlands, or wetlands.

2. Woodland Clearance

No woodlands shall be cleared for agricultural crop, animal production, or other purposes other than the harvesting of woodland products without approval of a Conditional Use Permit, as set forth in this Ordinance. Such a Conditional Use Permit may be granted for development of drainage channels, roads, clearings, or other improvements provided only that:

 - a. Such actions are necessary for the protection of existing uses or the proper development of adjacent properties.
 - b. Such actions are so limited or designed to minimize alterations or effects on natural conditions of rivers, woodlands, or wetlands.

612 Supplemental Use Regulations: Accessory Uses

1. Home-Based Businesses/ Home Occupations

Home-based businesses and home occupations are permitted as an accessory use in residential units subject to the following conditions:

 - a. External Effects:
 - i. There shall be no change in the exterior appearance of the building or premises housing the home occupation other than signage permitted within this section.
 - ii. 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.
 - iii. 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 of this subsection are applicable for the detached accessory building.
 - iv. 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.
 - v. 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.
 - vi. No home occupation shall discharge into any sewer, drainageway, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.
 - b. 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.
 - c. 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.

- d. 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.
 - e. 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.
 - f. High Impact Home-Based Businesses/Home Occupations
 - i. 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 Conditional Use Permit, as set forth in this Ordinance.
 - ii. Welding, vehicle body repair, or rebuilding or dismantling of vehicles are not permitted as home-based businesses.
 - iii. 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.
2. Permitted Accessory Uses: Residential Uses
Residential uses may include the following accessory uses, activities, and structures on the same lot.
- a. Private garages and parking for the residential use.
 - b. Recreational activities and uses by residents.
 - c. Home occupations, subject to these regulations.
 - d. Residential convenience services for multi-family uses or mobile home parks.
 - e. 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.
 - f. Caretaker's residences.
3. Permitted Accessory Uses: Civic Use Types
Guidance Services and Health Care use types are permitted in the I-2 General Industrial zoning districts only as accessory uses to a primary industrial use.
4. Permitted Accessory Uses: Other Use Types
Other use types may include the following accessory uses, activities, and structures on the same lot:
- a. Parking for the principal use.
 - b. 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.
 - c. Services operated for the sole benefit of employees of the principal use.
5. Permitted Accessory Uses: Agricultural Use Types

- a. Garden centers and roadside stands, subject to the regulations set forth in this Ordinance.
- b. Other uses and activities necessarily and customarily associated with the purpose and functions of agricultural uses.

613 Supplemental Use Regulations: Outdoor Storage outside of the I-2 Zoning District

Outdoor storage is prohibited in all zoning districts except the I-2 General Industrial zoning district, except as provided in this section.

- 1. Agricultural Use Types
Outdoor storage is permitted only where incidental to agricultural uses.
- 2. Civic Use Types
Outdoor storage is permitted only where incidental to Maintenance Facilities.
- 3. Commercial Use Types
 - a. Outdoor storage is permitted where incidental to Agricultural Sales and Service; Auto Rentals and Sales; Construction Sales; Equipment Sales and Service; Stables and Kennels; and Surplus Sales.
 - b. Outdoor storage is permitted where incidental to Auto Services, Equipment Repair, and Body Repair, provided that such storage is completely screened at property lines by an opaque barrier, as set forth in Section 805. This provision shall apply to any Auto Services, Equipment Repair, or Body Repair use established after the effective date of this Ordinance.
- 4. Industrial and Miscellaneous Use Types
 - a. Light Industry within the C-3 Town Center District zoning district may not include outdoor storage.
 - b. Outdoor storage is permitted where it is incidental to Light Industry outside of the C-3 Town Center District; General Industry; Heavy Industry; Resource Extraction; Salvage Services; Warehousing; and Construction Yards. Any such outdoor storage is subject to screening requirements set forth in Article Eight.
 - c. Outdoor storage is permitted where incidental to landfills.

614 Supplemental Use Regulations: Temporary Uses

- 1. Purpose
These provisions are intended to permit occasional, temporary uses and activities, when consistent with the objectives of the Zoning Ordinance and compatible with surrounding uses. They are further intended to prevent temporary uses from assuming the character of permanent uses.
- 2. Temporary Use Taxes
The following temporary uses are permitted, subject to the regulations contained within these sections:
 - a. Model homes or apartments, if contained within the development to which they pertain.

- b. Development sales offices. Such offices may remain in place until 90% of the lots or units within the development are sold and may not be located within a mobile home or manufactured home/structure.
 - c. Public assemblies, displays, and exhibits.
 - d. Commercial circuses, carnivals, fairs, festivals, or other transient events, provided that events are located on property owned by the sponsoring non-profit organization, or are located within a C-3 or more intensive zoning district.
 - e. Outdoor art shows and exhibits.
 - f. Christmas tree or other holiday-related merchandise sales lots, provided that such facilities are not located in a residential zoning district.
 - g. Construction site offices, if located on the construction site itself.
 - h. Outdoor special sales, provided that such sales operate no more than three days in the same week and five days in the same month; and are located in commercial or industrial zoning districts.
 - i. Construction Batch Plants, provided that:
 - i. No plant may be located within 600 feet of a developed residential use, park, or school.
 - ii. The facility is located no more than one mile from its job site. The Building Inspector may extend this distance to two miles, if such extension avoids use of local streets by plant-related vehicles.
 - iii. Hours of operation do not exceed 12 hours per day.
 - iv. The duration of the plant's operation does not exceed 180 days.
 - j. Additional temporary uses that the Building Inspector determines to be similar to the previously described uses in this section.
3. Required Conditions of All Temporary Uses
- a. Each site shall be left free of debris, litter, or other evidence of the use upon its completion or removal.
 - b. The Building Inspector may establish other conditions which he/she deems necessary to ensure compatibility with surrounding land uses.
4. Permit Application and Issuance
- a. An application to conduct a temporary use shall be made to the Building Inspector and shall include at a minimum a description of the proposed use; a diagram of its location; information regarding hours and duration of operation; and other information necessary to evaluate the application.
 - b. The Building Inspector may authorize a temporary use only if he/she determines that:
 - i. The use will not impair the normal operation of a present or future permanent use on the site.
 - ii. The use will be compatible with surrounding uses and will not adversely affect the public health, safety, and welfare.
 - c. The duration of the permit shall be explicitly stated on the permit.
 - d. Decisions of the Building Inspector may be appealed to the Board of Adjustment.

7 ARTICLE SEVEN

SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

701 Purpose

The Supplemental Site Development Regulations recognize the existence of special conditions that cannot comply literally with the site development regulations set out for each zoning district. Therefore, these regulations qualify or modify the district regulations of this title and provide for specific areas of exception.

702 Setback Adjustments

1. Lots Adjoining Alleys

In calculating the depth of a required side or rear yard setback for a lot adjoining a dedicated public alley, one-half of the alley width may be credited as a portion of the yard. However, no residential structure may be nearer than three feet to the near side of the alley.

2. Exceptions to Openness of Required Yards

Every part of a required yard shall be open and unobstructed from finished grade upward, except as specified herein.

- a. Architectural projections, including roofs that cover porches, enclosed porches, window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project three feet into a required yard.
- b. Terraces, patios, uncovered decks, and ornamental features that have no structural element more than two feet above or below the adjacent ground level may project ten feet into a required yard. However, all such projections must be set back at least three feet from an adjacent side lot line; or twenty feet from any street property line.
- c. Fire escapes, fireproof outside stairways, and balconies opening to fire towers may project a maximum of 3 feet into required yards, provided that they do not obstruct the light and ventilation of adjacent buildings.
- d. For buildings constructed upon a front property line, a cornice may project into public right-of-way. Maximum projection is the smaller of four feet or five percent of the right-of-way width.
- e. In commercial districts, a canopy may extend into a required front yard, provided that the canopy is set back at least five feet from the front property line, covers less than fifteen percent of the area of the required front yard, and has a vertical clearance of at least eight feet six inches.
- f. Accessory buildings are subject to all site development regulations of its zoning district, except as provided below:
 - i. Side Yards: An accessory building may be located a minimum of 5 feet from the side lot line of the property if it is located between the rear building line of the principal building and the rear property line.

- ii. Front Yards: No accessory building may be located between the front building line of the principal building and the front property line.
 - iii. Rear Yard: The minimum rear yard setback for accessory buildings shall be 8 feet. This minimum rear yard setback shall be increased to 15 feet if the accessory building requires vehicular access from an alley. Double-frontage lots shall require front-yard setbacks along both street frontages as set forth in Table 4-3. Easements may be incorporated into these required setbacks. No accessory building shall be located within any easement or right-of-way along the rear property line.
 - iv. Street Yards: No accessory building shall be located within 20 feet from any street right-of-way line.
 - v. With the exception of detached garages, no accessory building shall exceed 1.5% of total lot area within an R-1 or R-2 district. The maximum size of a detached garage for a single-family or duplex residential structure shall be the larger of 500 square feet or 25% of the building coverage of the main residential structure. All buildings on the site, taken together, must comply with the building coverage requirements for the zoning district.
 - vi. Height: In residential districts, the maximum height shall be 15 feet for a detached garage and 10 feet for any other accessory building. Maximum height for a detached garage and/or other accessory building in a TA District shall be 20 feet.
 - vii. Separation from Other Buildings: No accessory building shall be placed within ten feet of any other building on its own property or any adjacent properties.
 - viii. Attached Accessory Buildings: Any accessory building physically attached to the principal building shall be considered part of the principal building and subject to the development regulations of its zoning district.
 - ix. Effect on Adjacent Properties: If an adjacent lot is built upon, the accessory building must be entirely to the rear of the line of any principal building on such adjacent lot. No accessory building shall damage adjacent property by obstructing views, inhibiting solar access, or hindering ventilation.
 - x. Hazards: Any accessory use which creates a potential fire hazard shall be located a minimum of 10 feet from any residential structure. Such uses include but are not limited to detached fireplaces, barbecue ovens, or storage of flammable materials.
 - xi. No accessory building shall be built upon any lot until construction of the principal building has begun.
- g. Lamp posts with a maximum height of ten (10) feet, and flag poles up to maximum height of base district may be located within required yards, provided they are set back at least five (5) feet from property lines.

3. Setback Adjustments
 - a. Setbacks on Built-Up Blockfaces

These provisions apply if 51% or more of the buildings on that blockface have front yard setbacks different from those required for the specific district.

 - i. If a building is to be built on a parcel of land within 100 feet of existing buildings on both sides, the minimum front yard shall be the mean setbacks of the adjacent buildings.
 - ii. If a building is to be built on a parcel of land within 100 feet of an existing building on one side only, the minimum front yard shall be the setback of the adjacent building.
 - iii. If a building is to be built on a parcel of land not within 100 feet of an existing building on either side, then the minimum front yard shall be the mean setback of all existing buildings on the blockface.
 - iv. No setback adjustment pursuant to this section shall create a required front yard setback more than five feet greater than that otherwise required by the applicable zoning district.
 - b. Corner Lots

Required setbacks shall not reduce the buildable width of any corner lot to less than 24 feet. Appropriate setback adjustments shall be allowed to maintain this minimum width.
4. Rear Yard Exceptions - Residential Uses

When an irregular lot is used for residential purposes, the rear yard may be measured as the average horizontal distance between the building and rear lot line, provided that the minimum setback shall not be less than sixty percent (60%) of the rear yard required by the zoning district.
5. Double Frontage Lots

Residentially zoned double frontage lots on a collector or arterial street, as designated in the city's Comprehensive Development Plan, and with no access to that street may have a 20-foot minimum front yard setback along said street. All other double frontage lots must provide full front yard setbacks from each adjacent street.
6. Antennas
 - a. Antennas with a surface area over 6.3 square feet and which are accessory to a primary use and are designed to receive and transmit electromagnetic signals, or to receive signals from satellites, shall not be located within any front yard of the primary use.
 - b. Such antennas shall be located no less than fifteen feet from the property line of an adjacent property within a residential zoning district.
7. Vision Clearance Zones

No structure, including a fence, shall be built to a height of more than three feet above the established curb grade on the part of the lot bounded by the street lines of the streets which intersect and a line connecting a point on each of such lines forty feet from their point of intersection. No

landscaping shall be planted in such area which will materially obstruct the view of drivers approaching the street intersection.

703 Height Exceptions

These provisions allow exceptions to the height limit of any zoning district in certain situations.

1. Vertical Projections
Chimneys, cooling towers, building mechanical equipment, elevator bulkheads, fire towers, grain elevators, non-parabolic receiving antennas, tanks, solariums, steeples, penthouses not exceeding 25 percent of total roof area, flag poles, stage towers or scenery lofts, and water towers may be built to any height in accordance with existing and future ordinances.
2. Amateur Radio Towers and Federal Communication Commission Pronouncements
 - a. Radio towers, antennas and other appurtenances operated by licensed amateur radio operators, where permitted and when, may not exceed 75 feet in height. This height has been determined by the City to reasonably accommodate amateur service communications, and further represents the minimum practicable regulation to accomplish legitimate municipal land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission.
 - b. Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the City Council may grant a Conditional Use Permit to a licensed amateur radio operator for a specific tower height that exceeds 75 feet. In determining whether to grant such permission, the City Council shall consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption, 101 FCC 2d (1985); codified at C.F.R. Section 97.15(e).
 - c. Such radio towers shall not be located within any front yard of the primary use.
3. Broadcast Towers
Broadcast towers, when operated by a federally-licensed commercial or non-profit organization, may be built to any height in accordance with existing and future ordinances. This exception does not apply to radio towers, antennas and other appurtenances operated by licensed amateur radio operators.
4. Civic Buildings
Buildings housing civic use types may be built to a maximum height of 60 feet. Such buildings located in residential districts shall be set back one foot in addition to required setbacks from each property line for each foot of height over the maximum height of the zoning district.
5. Wind Energy Systems (WES)
 - a. The WES is exempt from the height restrictions of the base district.
6. Conditional Permit Uses
The City Council with the recommendation of the Planning Commission may grant an exception from the height limit for a zoning district for a

conditional permit use, as part of its approval of that use. The limit or extent of this exception shall be a specific part of the conditional use permit.

7. Federal Aviation Administration Rules

No structure may be built in any zoning district which exceeds the maximum height permitted under the rules of the Federal Aviation Administration. These rules describe the glide angles and operational patterns for any airport within the planning jurisdiction of the City of Atkinson.

704 Exceptions to Site Development Regulations for Creative Subdivisions

1. Purpose

In the instance that the Subdivision Chapter of the Land Development Ordinance provides for creative subdivisions, the city may authorize such subdivisions to allow for greater flexibility in the design and development of subdivisions, in order to produce innovative residential environments, to provide for more efficient use of land, to protect topographic and to encourage the preservation of common area and open space. These special regulations and design exceptions apply only to creative subdivisions.

2. Site Area Per Unit

a. Unless otherwise provided, the site area per unit for a creative subdivision as a whole shall be that of the zoning district in which such subdivision is located. For the purpose of computing site area per unit, the area of public streets and private ways within the subdivision must be excluded. Residential use types may be combined within the creative subdivision provided that the subdivision as a whole complies with the required maximum density of the zoning district.

3. Perimeter Yards

a. Structures must maintain normal street yard setbacks from any public streets that form the perimeter of the development.
 b. Structures must maintain a 20 foot minimum sideyard setback from any property line that forms the boundary of the development.

4. Area and Yards for Individual Lots

a. Individual lots within a creative subdivision are exempt from minimum lot area or yard setback requirements set forth elsewhere in this Ordinance, unless provided for by the regulations for a specific zoning district. A creative subdivision must be planned and developed as a common development. A minimum separation of twenty (20) feet shall be established for all residential structures not attached to one another, unless the City Council grants a specific exception for developments proposing unique circumstances, only in as much as said development can be demonstrated to avoid detriment to Atkinson's efforts to protect public health, safety, welfare, community character, property values and aesthetics.

- b. Any private garage oriented to or facing a public street or private way internal to the creative subdivision must be set back a minimum of 25 feet from that public street or private way.
- 5. Coverage and Landscaping Requirements
Individual lots in a creative subdivision are exempt from maximum building and impervious coverage limitations and street yard landscaping requirements established for the zoning district. However, the subdivision as a whole, including streets, walks, and access ways, must comply with the building and impervious coverage regulations for its zoning district.

705 Fence Regulations

- 1. Location Restriction
Unless otherwise provided by this title or other sections of the Atkinson Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines, or tract outside the surveyed lot lines, or adjacent to any Municipal property, excluding public streets.
- 2. Required Openings
Unless otherwise provided by this title or other sections of the Atkinson Municipal Code, any fence built on residential property within required front or street side yards shall contain openings constituting no less than 50 percent of the surface area of the fence.
- 3. Sight Obstruction
No solid fence permitted or required by this title or other sections of the Atkinson Municipal Code shall be built within a triangle formed by the adjacent side lines of two intersecting streets and a line connecting points 40 feet on each leg from their point of intersection; or otherwise in any manner create a traffic hazard or obstruction to visibility.
- 4. Facing
The finished surfaces of any fence shall face toward adjacent properties and street frontage.

5. Effect on Adjacent Properties
No accessory building shall damage adjacent property by obstructing views, inhibiting solar access, or hindering ventilation.
6. Residential Fences
Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions.
 - a. Height: The maximum height of a fence within a required front yard or street side yard setback shall be four feet (4'). The maximum height for any fence outside of a required front yard shall be six feet (6').
 - b. Exception for Street Side Yards: On corner lots, a fence built parallel to the street side yard line but set back in conformance with the required street yard setback may have a maximum height of six feet (6').
 - c. Exception to Openness Requirement: Fences built on residential property outside of required front or street side yards may exceed of 50 percent closed construction.
 - d. Exception for Front Yards of Double Frontage Lots: A fence built within the required front yard of a double frontage lot may be a maximum of six feet in height and may exceed 50 percent closed construction if such lot fronts a major street, as defined in the Comprehensive Development Plan of the City of Atkinson; and if such frontage does not provide primary access to the property.
 - e. Materials: Fences shall be constructed of wood, chain-link, PVC/ resin, stone or masonry materials only. Wood fences shall utilize standard building lumber only.
 - f. Residential Swimming Pools: A closed or privacy fence with a height of at least six feet with a locking gate shall be required as a perimeter fence around a below ground open residential swimming pool, or a permanent, above-ground swimming pool.
7. Other Fences
Fences constructed in commercial and industrial districts are subject to the following special provisions:
 - a. The maximum height of a fence for any permitted use in any non-residential zoning district shall be eight feet.
 - b. Civic Uses in Residential Districts: The maximum height of fences installed as part of Primary and Secondary Educational Facilities or Park and Recreation Use Types within Residential Zoning Districts shall be eight feet.
 - c. The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Atkinson.
 - d. Barbed wire may be used in the construction of perimeter security fencing in an industrial district or for municipal facilities provided that the bottom strand of the wire shall be at least six feet above ground level. Barbed wire may be constructed for agricultural purposes in an AG District. Electrified fences are not permitted within any zoning district.

8. Existing Fences

Any existing fence lawfully built before the effective date of this Ordinance may remain in place without change. Any replacement or change of such fence shall meet the requirements of this section.

706 Appeals

Denial, revocations, or cancellations of a building permit based on the provisions of this Section may be appealed to the Board of Adjustment, as set forth in this Ordinance.

8 ARTICLE EIGHT

LANDSCAPING AND SCREENING STANDARDS

801 Purpose

The Landscaping and Screening Regulations provide additional guidance on the development of sites within Atkinson 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 Atkinson.

802 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.

803 Landscaping Requirements

Landscaping shall be required adjacent to each street property line and within street yards as set forth in Table 8-1.

804 Landscaping Materials and Installation Standards

1. **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 8-1: Required Landscape Depth

Zoning District	Depth of Landscaping Adjacent to Street Property Line
AG	25 feet
TA	25 feet
CN	NA
R-1	5 feet
R-2	5 feet
MH	5 feet
C-2	10 feet
C-3	No requirement
C-1	10 feet
I-1	15 feet
I-2	15 feet

805 Bufferyard 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 bufferyard on his/her lot or site, as set forth in this section. Bufferyard requirements apply only to those districts indicated in Table 8-2. Bufferyards are not required of single-family, 2-family, duplex, or townhouse use types in the more intensive zoning district.

1. The bufferyard dimensions set forth in Table 8-2 apply to zoning districts which share a common lot line or are adjacent but separated by an intervening alley.

Table 8-2: Bufferyard Requirements (feet)

		District B (Less Intensive Adjacent District)				
		AG (Note 1)	TA (Note 1)	R-1 (Note 1)	R-2 (Note 1)	MH (Note 1)
District A (More Intensive District) Note 3	AG, TA		Note 2	Note 2	Note 2	Note 2
	R-2	5	5	5 + 3 feet for each story over one	---	---
	C-2	10	10	10	10	10
	C-1	10	10	10	10	10
	I-1	20	20	30	30	30
	I-2	25	25	50	50	50

Notes to Table 8-2:

- 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 806.
- 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 bufferyard, the size of the bufferyard shall be one-half the required bufferyard set forth in Table 8-2.
3. Each required bufferyard must be entirely landscaped and free of paved areas, access ways, storage, or other disturbances.

806 Screening Standards

1. Application
Screening is required between adjacent zoning districts indicated in Table 8-2 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 (1) 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 bufferyard.
- 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.

807 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 Building Inspector, 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 bufferyard 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 bufferyard or screening provisions.

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9 ARTICLE NINE

OFF-STREET PARKING

901 Purpose

The Off-Street Parking Regulations require that developments provide parking in proportion to the need created by each use. The regulations further establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles in a functionally satisfactory manner and to minimize external effects on neighboring properties.

902 General Applications

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 C-3 Town Center District is exempt from the off-street parking requirements provided by Section 9-3. Any off-street parking facility constructed in the C-3 District after the effective date of this Ordinance must comply with the design standards set forth in this Article.

903 Schedule of Off-Street Parking Requirements

Parking facilities for each use shall be provided in accord with the minimum requirements set forth in Table 9-1.

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 Atkinson 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.

904 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 9-1: Minimum Off-Street Parking Requirements

Agricultural Use Types	
Horticulture	1 space per 1,000 square feet of sales area.
Crop Production	No requirement.
Animal Production	No requirement.
Commercial Feedlots	No requirement.
Residential Use Types	
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

OFF-STREET PARKING

Civic Use Types	
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.
Child 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.
Utilities	1 space per employee of maximum shift.
Commercial Use Types	
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.

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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.
Office Use Types	
General Offices	1 space per 300 square feet.
Medical Offices	3 spaces per staff doctor or dentist.
Miscellaneous Use Types	
Broadcasting Tower	No requirement.
Non-Putrescible Landfill	No requirement.
All Landfills	No requirement.
Industrial Use Types	
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.

* Auto Service and Body Repair subject to other restrictions applicable under this ordinance:

See Section 4: Use Types - "Vehicle Storage"; also,
Section 6: Supplemental Use Regulations, "Outdoor Storage."

** This standard may be reduced by up to 20% at the discretion of the Building Inspector, 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.

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.

905 Parking for People with Disabilities

Each off-street parking facility shall provide the number of parking spaces set forth in Table 9-2 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 9-2: 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.”

906 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 places shall be designed in compliance with the standards of the Americans with Disabilities Act.
2. Drainage
 - a. 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. 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.
4. 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.
5. 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.
6. 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.
7. 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.

907 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.
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 9-3: 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 areas are subject to the landscaping and buffering requirements for parking facilities set forth in this Article.

908 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 under 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 Building Inspector 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.
- e. Heavy commercial vehicles, including tractor cab units weighing more than 10 tons gross empty weight, agricultural equipment, and recreational vehicles shall not be parked on any lot within the R1, R2, and MH residential zoning districts for a period of more than 24 consecutive hours, except as provided below.
3. 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 any district except for the C-3 district, if it is situated within rear yards or interior side yards behind the required front yard setback.

10 ARTICLE TEN

SIGN REGULATIONS

1001 Purpose

The Sign Regulations provide standards for communicating information in the environment of the City of Atkinson 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.

1002 Definition of Terms

The following definitions shall be used for terms contained in this chapter that are not otherwise defined in the Atkinson 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.

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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.

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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 lightweight 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.

1003 General Sign and Street Graphics Regulations

1. Compliance
Each sign or part of a sign erected within the zoning jurisdiction of the City of Atkinson must comply with the provisions of this chapter and of other relevant provisions of the City of Atkinson'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)
2. Resolution of Conflicting Regulations
This chapter is not meant to repeal or interfere with enforcement of other sections of the City of Atkinson's Municipal Code. In cases of conflicts between Code sections, State or Federal Regulations, the more restrictive regulations shall apply.
3. Prohibited Signs
The following signs are prohibited in all zoning districts.
 - a. 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.
 - b. Signs on or overhanging public property or public right-of-way, unless specifically authorized by the appropriate public agency.
 - c. Signs which create a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscure official signs or signals.
 - d. Abandoned signs. Any abandoned sign must be removed within six months of date of abandonment.

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- e. Signs that are not clean or in substantial good repair, or are not affixed to a sound structure.
 - f. Signs advertising activities that are illegal under Federal, state, or local laws and regulations.
4. Exempt Signs
- The following signs are permitted in any zoning district and are exempt from other provisions of this chapter.
- a. 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.
 - b. Real estate signs.
 - c. Official signs authorized by a government or governmental subdivision which give traffic, directional, or warning information.
 - d. Seasonal decorations for display on private or public property.
 - e. On-premise construction signs.
 - f. 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.
 - g. Works of graphic art painted or applied to building walls which contain no advertising or business identification messages.
 - h. Residential signs under 2 square feet in size.
 - i. Neighborhood or subdivision identification signs under 50 square feet.
 - j. Street numbers.
 - k. 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.
5. Temporary and Civic Signs
- a. Temporary or portable signs for grand openings, sales, and special events are permitted in Commercial and Industrial zoning districts, subject to the following requirements:
 - i. Such signs are subject to the permit procedures set forth in this section.
 - ii. The size of such signs does not exceed the limitations set forth in Table 10-3.
 - iii. No more than one such sign is permitted at any single premises.
 - iv. Temporary or portable signs may be present at any single premises for a maximum of 30 days per year.
 - b. 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:
 - i. Such signs are subject to the permit procedures set forth in this section.
 - ii. 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.

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- iii. 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.
6. 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.

1004 General Regulations: Basic Design Elements For On-premise Signs

1. Wall Signs and Graphics
Wall signs and graphics are subject to the following general regulations.
 - a. A wall sign shall not extend more than 30 inches from the wall to which it is attached.
 - b. A wall sign must be parallel to the wall to which it is attached.
 - c. 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.
 - d. A wall sign may not extend beyond its building's roof line.
 - e. 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.
 - f. For the purpose of calculating permitted sign areas pursuant to this chapter, signs painted on the walls of buildings shall be considered wall signs.
2. Projecting Signs and Graphics
Projecting signs and graphics are subject to the following general regulations.
 - a. Projecting signs must minimize visible support structure and may not expose guy wires, cables, turnbuckles, angle iron, or other similar external support structure.
 - b. Projecting signs shall not interfere, block, or encroach upon public right-of-way, pedestrian walkways, or vehicular driveways, parking spots, or ingress/egress.
3. Pole Signs
Pole signs, where permitted, are subject to the following general regulations:
 - a. Each pole sign must maintain at least the following vertical clearances:
 - i. 8 feet, 6 inches over sidewalks;
 - ii. 10 feet outside of parking areas or driveways, but within three feet of such areas; or within 50 feet of the right-of-way lines formed by a street intersection.
 - iii. 14 feet over parking lots;
 - iv. 18 feet over alleys or driveways.
4. Roof Signs
Roof signs are subject to the following regulations:

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

1005 General Regulations: Other Design Elements

1. Illumination
 - a. 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.
2. Marquees and Marquee Signs
 - a. Signs placed on, attached to, or constructed on a marquee are subject to the maximum projection and clearance regulations of projecting signs.
3. Banners
 - a. A banner sign projecting from a building may not exceed the wall height of the building.
 - b. Maximum projection for any banner is five feet with a minimum clearance of ten feet.
4. Clocks
For the purposes of this chapter, clocks are not considered a moving sign.

1006 Specific Regulations For Zoning Districts

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

1007 Method of Measurement for Regulators

1. 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.
2. Sign Area
 - a. 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.
 - b. The area of double-faced signs is calculated on the largest face only.
 - c. 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.
 - d. In the case of individual letters mounted to a wall, only the total area of the letters themselves is included within the sign area.
3. 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.

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

1008 Permitted Sign Types by Zoning Districts

Table 10-1 sets forth the sign types permitted within each zoning district of the City of Atkinson.

1009 Auxiliary Design Elements

Table 10-2 sets forth auxiliary design elements permitted within each zoning district of the City of Atkinson.

1010 Maximum Permitted Sign Area

Table 10-3 sets forth the maximum sign area permitted within each zoning district of the City of Atkinson.

1011 Permitted Signs by Numbers, Dimensions, and Location

Table 10-3 sets forth the maximum permitted numbers of signs per premise; the maximum permitted dimensions of each sign; and the required setbacks for detached signs.

1012 General Permit Procedures

1. 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.
2. 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.
3. Sign Permit Applications
All applications for sign permits shall be submitted to the Building Inspector in accordance with application specifications established by the Building Inspector.
4. 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.
5. Action
Within ten working days of the submission of a complete application for a sign permit, the Building Inspector shall either:
 - a. Issue the sign permit, if the sign conforms to the provisions of this Article.
 - b. 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.

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6. 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.
7. 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.

1013 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 with approval from the City Council. 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.

1014 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.

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Table 10-1: Permitted Signs by Type and Zoning Districts

Sign Types	AG	TA	CN	R-1	R-2	MH	C-2	C-3	C-1	I-1	I-2
Detached Signs											
Residential	P	P	N	P	P	P	P	N	N	N	N
Premise Identification	P	P	N	P(C)	P	P	P	P	P	P	P
Directional	P(C)	P(C)	P(C)	P(C)	P	P(C)	P	P	P	P	P
Ground	P	P	N	P	P	P	P	P	P	P	P
Pole	N	N	N	N	N	N	N	N	P	N	P
Attached Signs											
Awning	N	N	N	S	P	P	P	P	P	P	P
Banner	N	N	N	N	N	N	P	P	P	P	P
Builder Marker	P	P	P	P	P	P	P	P	P	P	P
Canopy	N	N	N	N	P	N	P	P	P	P	P
Premise Identification	P	P(C)	P(C)	P(C)	P	P	P	P	P	P	P
Directional	P(C)	P(C)	P(C)	P(C)	P	P	P	P	P	P	P
Marquee	N	N	N	N	N	N	P	P	P	P	P
Projecting	N	N	N	N	N	N	N	P	P	P	P
Roof, Integral	N	N	N	N	N	N	P	P	P	P	P
Roof, Above Peak	N	N	N	N	N	N	N	N	N	P	P
Wall	P	P	N	P	P	P	P	P	P	P	P
Window	N	N	N	N	N	N	P	P	P	P	P
Miscellaneous											
Flag	P	P	P	P	P	P	P	P	P	P	P
Portable	N	N	N	N	N	N	N	N	N	N	N

P: Permitted for All Uses

P(C): Permitted for Civic Uses

N: Not Permitted

Table 10-2: Permitted Signs by Auxiliary Design Elements and Zoning Districts

Sign Types	AG	TA	CN	R-1	R-2	MH	C-2	C-3	C-1	I-1	I-2
Illumination											
Indirect	P(C)	P(C)	N	P(C)	P(C)	P(C)	P	P	P	P	P
Direct	N	N	N	N	N	N	N	N	N	N	N
Internal	P(C)	P(C)	N	P(C)	P	P(C)	P	P	P	P	P
Neon	N	N	N	N	N	N	P	P	P	P	P
Flashing	N	N	N	N	N	N	N	N	N	N	N
Frame	N	N	N	N	N	N	N	N	N	N	N
Bare Bulb	N	N	N	N	N	N	N	N	N	N	N
Other											
Electronic Information	N	N	N	N	N	N	P	P	P	P	P
Moving	N	N	N	N	N	N	N	N	P	N	P
Rotating	N	N	N	N	N	N	N	N	P	N	P

P: Permitted for All Uses

P(C): Permitted for Civic Uses

N: Not Permitted

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Table 10-3: Permitted Signs by Maximum Permitted Area and District

Zoning District	AG	TA, R-1, MH	R-2	C-2	C-3	C-1	I-1, I-2
Square Feet of Signage per Linear Foot of Frontage	NA	NA	NA	1.0	1.5	1.5	2.0
Maximum Total Square Feet	Note 1	Note 2	Note 2	300 Note 3	300 Note 4	400 Note 4	400 Note 4

Note 1:

100 square feet for civic or commercial uses, 2 square feet for residential uses, including home occupations.

Note 2:

48 square feet for project identification signs for multi-family or mobile home developments and for non-residential uses when permitted; 32 square feet for civic uses, 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, 75 square feet for project identification signs for multi-family developments, 2 square feet for residential uses, including home occupations.

Note 4:

One additional Business Center Identification Sign with a maximum area of 150 square feet is permitted subject to the regulations set forth by Table 10-3.

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Table 10-4: 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
<i>Detached Signs</i>							
Number Permitted per Premise	1	1	1	1	1	NA	NA
Per Feet of Frontage	NA	NA	NA	NA	NA	1 per 200	1 per 200
Maximum Size* (sq. ft.)	100*	x	x	100	100	100	150
Maximum Height (feet) of Structure Above Ground	20	10	10	15	20	20	20
Front Yard Setback (feet)	10	5	10	10	0	0	0
Side Yard Setback (feet)	10	10	10	10	0	5	0
<i>Attached Signs</i>							
Maximum Size* (sq. ft.)	100	x	x	100	150	150	200
% of Street Facade	NA	NA	NA	20%	20%	20%	25%

x: See Table 10-3 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 150 square feet.
2. No Business Center Identification sign shall be within 300 feet of any other center identification sign or within 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.

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11 ARTICLE ELEVEN

NONCONFORMING DEVELOPMENT

1101 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.

1102 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.

1103 Nonconforming Lots

1. 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.
2. 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.

1104 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 coverages 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 Eight, 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 Eight.

1105 Nonconforming Uses

1. 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.
2. Enlargement of Nonconforming Uses
A building or structure housing a lawful nonconforming use may not be added to or enlarged.
3. Abandonment of Nonconforming Use
If any structure or property used as a lawful nonconforming use becomes abandoned for a continuous period of twelve (12) months, any subsequent use must conform to all use regulations applicable to the property's zoning district.
4. Change of Use
 - a. 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.
5. 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.
6. 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 50 percent of the replacement cost of the structure, the nonconforming use shall no longer be permitted.
7. 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 these regulations.

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12 ARTICLE TWELVE

ADMINISTRATION AND PROCEDURES

1201 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.

1202 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 Atkinson 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 for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.

2. Administration

The Building Inspector 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 building 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 Building Inspector. 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 Building Inspector, or his/her designee.
- 5. Administrative Action and Appeal
The Building Inspector, 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 ten 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 Building Inspector, 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 Table 12-1 and conformance with applicable regulations in this Zoning Ordinance.
 - b. The Building Inspector, 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 Table 12-1.
 - 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 Building Inspector, 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 two years after the date of approval, unless the applicant receives a Building Permit and diligently carries out development prior to the expiration of this period.
 - b. The Building Inspector, 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 Table 12-1.
 - c. The Building Inspector, 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 until the expiration date of such approval.

1203 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 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 Building Inspector 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 Building Inspector to be necessary to describe the proposed use to approving agencies.
4. Approval Process
 - a. The 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

- a. The Planning Commission and the City Council shall review and approve the site plan based on the criteria established in Table 12-1 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 two years 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 12-1: Criteria for Site Plan Review and Conditional Use Permits

CRITERIA:		APPLIES TO:	
		Site Plan Review	Conditional Use Permit
Land Use Compatibility			
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
Height and Scale			
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
Site Development			
Frontage	Project frontage along a street should be similar to lot width.	X	X
Parking and 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 drainageways should be preserved.	X	X
Building Design	Architectural design and building materials should be compatible with surrounding areas or highly visible locations		X

ADMINISTRATION AND PROCEDURES

	CRITERIA:	APPLIES TO:	
		Site Plan Review	Conditional Use Permit
Operating Characteristics			
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 operations.	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
Public Facilities			
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
	Sanitary sewer must have adequate capacity to serve development.	X	X
Storm Water Management	Development should handle storm water adequately to prevent overloading of public storm water management system.	X	X
	Development should not inhibit development of other properties.	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
Comprehensive Plan	Projects should be consistent with the City of Atkinson's Comprehensive Development Plan.		X

1204 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 Planning Commission or City Council.
 - b. Rezoning may be initiated by a property owner or authorized agent; the Planning Commission; or the City Council.
3. Rezoning Application Requirements
An application for a rezoning may be filed with the Building Inspector 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 Building Inspector to be necessary to describe the proposed use to approving agencies.
4. Amendment Process
 - a. The Planning Commission, following ten days' notice and publication and notification of the School Board ten days prior based on 19-923 of Nebraska Revised State Statutes, 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 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 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 Atkinson a Notice of the time, place and subject matter of such hearing

1205 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 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 Atkinson and the present use of the land.

1206 Building Permits and Certificates of Zoning Compliance

1. Administration and Enforcement
The Building Inspector shall administer and enforce this ordinance. The City Council may direct other persons to assist him/her.
If the Building Inspector, 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. Building Permits Required
No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the administrative official. No building permit shall be issued by the administrative official 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 Building Permit
All applications for building 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 administrative official, 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.

One copy of the plans shall be returned to the applicant by the administrative official, after he/ she shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of the plans, similarly marked, shall be retained by the administrative official.

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 administrative official stating that the proposed use of the building or land conforms to the requirements of this ordinance.

5. Expiration of Building Permit

a. If the work described in any building permit has not begun within 180 days 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 building permit has not been substantially completed within two years 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 building permit has been obtained.

c. The expiration date of a building permit may be established for a period longer than two years if established at the time that such permit is issued by the City. The Building Inspector, or his/her designee may, at his/her discretion extend the expiration period of the building permit.

6. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance

Building 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.

1207 Schedule of Fees, Charges and Expenses

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building 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.

1208 Board of Adjustment

1. Establishment

- a. A Board of Adjustment is hereby established to provide relief in situations of hardship or to hear appeals as provided by this Section. The Board shall consist of five regular members, plus one additional alternate member who shall attend and vote only when one member is unable to attend for any reason.
- b. Each member shall be appointed by the Mayor with the approval of the City Council for a three-year term and is removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member of the Board shall be appointed from the Planning Commission, and the loss of membership on the Commission by such member shall also result in his/her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board.
- c. The Board of Adjustment shall adopt rules and regulations in accordance with this ordinance and the laws of the State of Nebraska pursuant to Sections 19-901 to 19-914 of Nebraska State Statutes. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. Such chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings and records shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. The Board shall keep a record of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. A majority of the Board shall constitute a quorum for the transaction of business.

2. Procedure for Appeals

- a. Appeals shall be made to the Board of Adjustment through the office of the Building Inspector in written form as determined by the Building Inspector. The Board shall fix a reasonable time for the hearing of the appeal and shall decide the appeal within 30 days of the date of the public hearing. An appeal stays all proceedings in furtherance of the action, unless the Building Inspector 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 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 Atkinson; 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.

1209 Powers and Duties of the Board Of Adjustment

The Board of Adjustment shall have only the following powers and duties:

1. Administrative Review: To hear and decide appeals where it is alleged there is error in any order, requirement, decisions or determination made by the Building Inspector, or his/her designee in the enforcement of this Ordinance or any regulation relating to the location or soundness of structures
2. Interpretation of Zoning Map: To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map.
3. 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.
 - a. Requirements for Grant of a Variance. No such variance shall be authorized by the Board unless it finds that:
 - i. Strict application of the zoning ordinance will produce undue hardship.
 - ii. Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
 - iii. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
 - iv. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.
 - v. 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.
- vi. 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.
 - b. Findings by Board. The Board of Adjustment shall make findings that the requirements of Section 1209 have been met by the applicant for a variance.
 - c. Conditions for Grant of Variance.
 - i. 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 1214 of this Ordinance.
 - ii. 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.
 - iii. 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.
 - d. Board has Powers of Building Inspector on Appeals: Reversing Decisions of Building Inspector
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 Building Inspector 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.

1210 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.

1211 Duties of Building Inspector, 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 Building Inspector, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Building Inspector, 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 12 of this Ordinance, and (3) of directing a city officer to appeal a decision of the Board of Adjustment.

1212 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.

1213 Complaints Regarding Violations

Whenever a violation of this resolution 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 Building Inspector. He/she shall record properly such complaint immediately, investigate, and take action thereon as provided by this resolution.

1214 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 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 six months, 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.

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13 ARTICLE THIRTEEN

SUBDIVISION REGULATIONS

1301 General Provisions

1. Purposes. The purposes of this Article are to:
 - a. Serve the public health, safety, and general welfare of the City and residents of Atkinson and its surrounding jurisdiction.
 - b. Provide for the orderly development and growth of the City by prescribing rules and standards insuring the functional arrangement of streets, public improvements, open spaces, community facilities, and utilities.
 - c. Promote the creation of well-planned and attractive residential, commercial, and industrial developments within the City and its jurisdiction.
 - d. Avoid excessive costs to the taxpayers of Atkinson or the residents of the jurisdiction of the City for the provision of public services and utilities, while maintaining high standards for these services.
 - e. Protect the unique environment of the City of Atkinson by avoiding environmental damage whenever feasible and appropriate; and by encouraging flexibility in the design of subdivisions.
 - f. Provide the City of Atkinson with the ability to grow incrementally through the eventual annexation of new developments.
2. Relationship to the Comprehensive Development Plan
 - a. The City of Atkinson intends that this Subdivision Chapter and any amendments to it shall be consistent with the City's Comprehensive Development Plan. Should this Ordinance become inconsistent with the adopted Comprehensive Development Plan because of subsequent amendments to that plan, it is the City's intent to amend this ordinance to bring it into conformance with the plan.
 - b. The Subdivision Chapter shall supplement and facilitate the provisions of the Comprehensive Development Plan, the Zoning Ordinance, the Official Zoning Map, and the City of Atkinson's Capital or General Fund Budget.
3. Jurisdiction and Applicability
 - a. The provisions of this chapter shall be applicable to all property within the corporate limits of the City of Atkinson and its one-mile extraterritorial jurisdiction as provided by Section 14, Revised Statutes of Nebraska, 1943.
 - b. No owner of real property within the City of Atkinson and its jurisdiction may subdivide or plat such property into lots for buildings or any other use, streets, or other forms of dedication for public use without gaining approval pursuant to this Ordinance. In addition, no individual may sell, offer to sell, or construct buildings on any lots or

- parts of real property that are not subdivided as required by State law or this Ordinance.
4. Amendment. When necessary, this Ordinance may be amended through public hearing and recommendation by the Planning Commission to the City Council. The City Council shall then hold its own independent public hearing and action on amendments.
 5. Fees. The City Council of the City of Atkinson shall establish fees sufficient to recover costs incurred for the processing and review of subdivision applications and other procedures included within this Ordinance.
 6. Enforcement. The Zoning Administrator shall enforce the provisions of this Ordinance and shall bring violations or lack of compliance to the attention of the Planning Commission and City Council, or other appropriate agency.
 7. Penalties.
 - a. Violation and Penalty.
 - i. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person 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 imprisoned for not more than six months, or both, and in addition shall pay all costs and expenses involved in the case.
 - ii. An owner, developer, or subdivider of property may each be found guilty of a separate offense and suffer the penalties provided in this section.
 - iii. Notwithstanding this section, the City and the Zoning Administrator shall have the right to take any lawful action necessary to prevent or remedy any violation of this Ordinance or any agreement pursuant to or other condition of an approval of a subdivision application.
 8. Interpretation, Conflict, and Severability
 - a. The Subdivision Chapter of the Land Development 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 Subdivision Chapter conflicts with any other provision of the Land Development Ordinance, any other Ordinance of the City of Atkinson, or any applicable State or Federal law, the more restrictive provision shall apply.
 - b. 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.
 - c. If any chapter, section, subsection, clause, or phrase of this Subdivision Chapter is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this

Ordinance or any other section of the City of Atkinson's Land Development Ordinance.

1302 Procedures and Administration

1. Purpose. The purpose of this Article is to establish procedures for subdivision applications and for review and action on applications by the Planning Commission and the City Council. The procedures are designed to assure adequate review and consideration of subdivision applications, while providing for an orderly and expeditious approval process. The Article provides procedures for the approval of three types of subdivisions: Administrative Subdivisions, Minor Subdivisions, and Major Subdivisions. Pursuant to 19-923 of the Nebraska Revised State Statutes, the City shall send notification, by submitting a copy of the proposal and public hearing dates, to the Board of Education ten days prior to a public hearing at Planning Commission for any approval of the platting or replatting of any development of real estate.
2. Administrative Subdivisions.
 - a. Scope. The Administrative Subdivision procedure may be used to adjust an interior lot line or combine two or more lots without replatting providing the following conditions are met:
 - i. In the case of an Administrative Lot Line Adjustment:
 - a) The lots involved must be designated within the same zoning district and the proposed adjustment will not create or result in a violation of the zoning ordinance.
 - b) The lots involved must be existing platted lots.
 - c) The adjustment alters lot lines of no more than four lots without creating additional lots.
 - ii. In the case of an Administrative Platting or Lot Consolidation:
 - a) The lots involved must be designated within the same zoning district and the proposed platting or lot consolidation will not create or result in a violation of the zoning ordinance.
 - b) The lots involved must be existing platted lots.
 - c) The lots must be under unified ownership.
 - d) The proposed platting creates no more than four lots, or the proposed consolidation consolidates no more than four lots into a lesser number of lots.
 - iii. A lot is limited to only one instance of administrative adjustment, platting, and/or consolidation.
 - iv. The subdivision is served by existing utilities and does not require the extension of streets, utilities, or public improvements.
 - v. Each lot resulting from the subdivision procedure will conform fully to all requirements of the zoning district that pertain to the lots; and each lot is developable according to the site development regulations of the zoning ordinance.

- b. Application and Approval Procedure. An application for an Administrative Subdivision may be approved under the following procedure:
 - i. The applicant submits an application on a form established by the Planning Commission and including the supporting documents required for Administrative Subdivisions in Table 13- 1. These documents shall include a plat of all lots and parcels that are affected by the action, prepared by a Licensed Surveyor or registered Professional Engineer.
 - ii. Following submission, the Zoning Administrator and City Engineer shall review each application according to the following criteria:
 - a) Compliance with the conditions contained in this article.
 - b) Consistency with the Comprehensive Development Plan of the City of Atkinson.
 - c) Potential adverse environmental effects or effects on neighboring properties.
 - iii. Following such review, the Zoning Administrator may approve the Administrative Subdivision. Such approval shall be denoted by signed certificate of approval which must be filed along with the plat with the Holt County Register of Deeds.
 - iv. The Zoning Administrator retains the right to disapprove or not act on the Administrative Subdivision application. In the event of such action, the application may proceed through the Minor or Major Subdivision process. If the subdivision complies with the conditions of a Minor Subdivision application, it may be directed to that approval process. Otherwise, the proposed subdivision shall be deemed a Major Subdivision and proceed through the appropriate review and action process.
 - v. Following approval of an Administrative Subdivision, the subdivider must file the plat and certificate of approval with the Holt County Register of Deeds. If the approved plat is not filed within 90 days of approval by the Zoning Administrator, such approval shall be null and void.
 - vi. The Zoning Administrator shall keep a complete and accurate record of all administrative subdivision approvals.
- 3. Minor Subdivisions.
 - a. Scope. The Minor Subdivision procedure may be used when a proposed subdivision meets all of the following conditions:
 - i. The subdivision adjusts the lot lines of no more than four lots without creating additional lots; or creates no more than four lots from any single parcel, tract, or lot.
 - ii. The subdivision is served by existing utilities and does not require the extension of streets, utilities, or public improvements.
 - iii. Each lot resulting from the subdivision procedure will conform fully to all requirements of the zoning district that pertain to the

- lots; and each lot is developable according to the site development regulations of the zoning ordinance.
- iv. No part of the parcel has been the subject of a previous Minor Subdivision or Minor Subdivision approval.
 - b. Application and Approval Procedure. An application for a Minor Subdivision may be approved under the following procedure:
 - i. The applicant submits an application on a form established by the Zoning Administrator and including the supporting documents required for Administrative Subdivisions in Table 13-1. These documents shall include a plat of all lots and parcels that are affected by the action, prepared by a Licensed Surveyor or registered Professional Engineer.
 - ii. Following submission, the Zoning Administrator and City Engineer shall review each application according to the following criteria:
 - a) Compliance with the conditions contained in this article.
 - b) Consistency with the Comprehensive Development Plan of the City of Atkinson.
 - c) Potential adverse environmental effects or effects on neighboring properties.
 - d) Effects of the subdivision on public services. In order to determine this effect, the Zoning Administrator may submit the application to relevant school districts, utilities, and public safety agencies as required.
 - iii. Following such review, the Zoning Administrator shall forward the application along with his/her recommendation, to the Planning Commission.
 - iv. The Planning Commission, following proper notice, shall hold a public hearing on each Minor Subdivision and, following such public hearing, shall take action on the application. If the subdivision is approved by the Planning Commission, the approval shall be documented by a certificate of approval, executed by the Zoning Administrator and the Chairperson of the Planning Commission. This certificate shall be filed along with the approved plat with the Holt County Register of Deeds. A record of all subdivisions and certificates of approval shall also be maintained by the City Clerk.
 - v. The Planning Commission retains the right to disapprove or not act on the Minor Subdivision application. In the event of such action, the application may proceed through the Major Subdivision process.
 - vi. Following approval of a Minor Subdivision, the subdivider must file the plat and certificate of approval with the Holt County Register of Deeds. If the approved plat is not filed within 180 days of approval by the Planning Commission, such approval shall be null and void.

- vii. The Zoning Administrator shall keep a complete and accurate record of all Minor Subdivision approvals.
4. Major Subdivisions.
- a. Applicability. The Major Subdivision procedures apply to all subdivisions which are not approved or eligible for approval under the Administrative or Minor Subdivision procedures. In general, these include subdivisions that: 1) are not approved under the Administrative or Minor Subdivision procedure; 2) create more than four lots; 3) require development or extension of public improvements.
 - b. Stages in the Approval Process. The approval process for Major Subdivisions consists of three stages: the pre-application stage, the preliminary plat approval stage, and the final plat approval stage.
 - c. Pre-application Procedures.
 - i. Before filing an application for preliminary plat approval, the applicant shall meet with the Zoning Administrator or his/her designee, regarding general requirements and issues relating to the proposed subdivision.
 - ii. At the pre-application conference, the applicant shall submit a concept plan. The concept plan shall include:
 - a) A location map showing the relationship of the proposed subdivision to existing and proposed streets and public facilities.
 - b) A schematic plan illustrating the proposed layout of streets, lots, and other features and their relationship to existing and proposed site topography.
 - iii. Within fifteen working days, the Zoning Administrator shall inform the applicant about the consistency of the concept plan with the objectives and policies of the City's Comprehensive Plan and Land Development Ordinance.
 - iii. The pre-application conference does not require a formal application or payment of a fee.
 - d. Preliminary Plat Application.
 - i. Application Requirements. After the pre-application conference, the applicant shall prepare and submit an application for preliminary plat approval. The applicant shall prepare and file 10 copies of a proposed preliminary plat. The application for preliminary plat approval shall be submitted to the City Clerk at least 21 calendar days before the Planning Commission meeting at which the application will be considered. The application shall consist of a form established by the Zoning Administrator; the supporting documents required for Major Subdivisions in Table 13-1; and payment of a fee, the amount of which shall be determined by the City Council.
 - ii. Draft Subdivision Agreement. The preliminary plat application shall include a draft of a subdivision agreement, following a

format established by the Planning Commission. The subdivision agreement establishes the mutual responsibilities of City and subdivider, including financing of public improvements; the nature of performance bonds and guarantees that the developer will offer; and the financing arrangements proposed for the subdivision.

- iii. Preliminary Plat Approval Procedure.
 - a) After submission of a complete application for a preliminary plat, the Zoning Administrator and his/her staff shall review the application. As part of the review, the Zoning Administrator will circulate the application to the City Engineer, local utilities, the school district in which the subdivision is located, public safety agencies, and any other applicable provider of public services deemed necessary. Each reviewing agency shall submit written comments to the Zoning Administrator within a period which he/she establishes.
 - b) Following the comment period, the Zoning Administrator shall submit a written recommendation for action to the Planning Commission.
 - c) The Planning Commission, following proper notice, shall hold a public hearing on each Major Subdivision and, following such public hearing, shall take action on the application. The Planning Commission may recommend approval, conditional approval, or denial of the preliminary plat to the City Council. In addition, the Commission may delay action on the application in order to resolve outstanding issues.
 - d) Following action by the Planning Commission, the Chairman of the Commission shall transmit a written recommendation summarizing the Commission's action to the City Council
 - e) The City Council, following proper notice, shall hold a public hearing on each Major Subdivision and, following such public hearing, shall take action on the application.
 - f) Approval of a preliminary plat by the City Council shall not constitute approval of a final plat. The approval shall be considered an expression of conditional approval to guide the preparation of a final plat, to be considered subsequently by approving authorities. The preliminary approval shall confer upon the applicant the following rights:
 - 1) The general terms and conditions under which the plat was approved will not change.
 - 2) The applicant may submit for approval a final plat for the whole or a part of the preliminary plat on or before the expiration date of the preliminary approval.

- 3) The preliminary plat approval shall stay in force for a period of one year from the date of approval by the City Council. The City Council may, at its discretion, establish a longer effective date for the preliminary plat approval. The City Council also may grant extensions to the effective period of a preliminary plat.
 - 4) Phased Subdivisions: The final plat may be submitted in phases, provided that no phase represents the lesser of 10 lots or 20% of the total number of lots in the entire approved preliminary plat. The initial phase of the final plat must be submitted according to the effective dates established in this Article. In the event of a phased subdivision, the initial preliminary plat approval remains effective for a period not to exceed five years, unless otherwise extended by the City Council.
- e. Final Plat Application Process.
- i. Application Requirements. The applicant shall prepare and submit an application for final plat approval within one year of the preliminary plat approval, unless an extension has been granted by the City Council. The application for final plat approval shall be submitted to the City Clerk at least 21 calendar days before the Planning Commission meeting at which the application will be considered. The application shall consist of a form established by the Zoning Administrator; the supporting documents required for Final Plat Approval of Major Subdivisions in Table 13-1; and payment of a fee, the amount of which shall be determined by the City Council.
 - ii. Final Subdivision Agreement. The final plat application shall include the final subdivision agreement to be executed between the City and the applicant. The terms of this agreement shall be acted upon along with action on the Final Plat.
 - iii. Performance Bond. The subdivision agreement shall specify the amount of the performance bond for public improvements to be filed prior to receiving final plat approval or, alternately, shall contain a statement that required improvements have been satisfactorily completed. The performance bond, if required, must be presented in a form satisfactory to the City Attorney prior to final approval of the subdivision.
 - iv. Final Plat Approval.
 - a) The Zoning Administrator and Planning Commission shall review the final plat for consistency with the approved preliminary plat and for compliance with the Land Development Ordinance and other applicable local, state, or federal statutes and regulations. If the final plat meets all conditions of the ordinance and is substantially consistent with the terms of the preliminary plat approval, the

Commission shall have no recourse but to approve the final plat.

- b) If the Planning Commission finds in its review that the submitted final plat is inconsistent with the preliminary plat, does not comply with the conditions of relevant ordinances and statutes, or requires a waiver of any section of the Subdivision Chapter, it shall hold a public hearing on the final plat. Following such public hearing, the Commission shall transmit its recommendation on the final plat to the City Council.
 - c) The City Council, following proper notice, shall hold a public hearing on each final plat and subdivision agreement and, following such public hearing shall take final action on the application. The City Council is further empowered to grant waivers of a section of the Subdivision Chapter after a waiver request has received a recommendation from the Planning Commission.
- f. Filing the Final Plat.
- i. Following City Council approval of a final plat, the Chairman of the Planning and Zoning Commission and the Mayor of the City of Atkinson shall sign a certificate of approval, which shall be a part of the reproducible documents of the subdivision plat required with submission of the final plat.
 - ii. The passage of a resolution by the City Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat. The applicant shall record the plat in the office of the Register of Deeds of Holt County and shall file satisfactory evidence of such recording in the office of the City Clerk before the City shall recognize the plat as being in force.
 - iii. The subdivider must file the plat along with all applicable covenants and other documentation within 180 days of the execution of the plat by the Chairman of the Planning Commission and the Mayor.
- g. Plats Outside of the Corporate Limits.
- i. Authority within One-Mile of the Corporate Limits. Pursuant to the authority contained in in the Nebraska Revised Statutes, 1943, the subdivision provisions of the Land Development Ordinance, and the provisions of the Municipal Code of the City shall govern all territory outside the corporate limits of the City but within one mile of such corporate limits, except to the extent that ordinances or resolutions of the City Council shall limit their application to an area less than two miles of such corporate limits.
 - ii. Procedures. Procedures for the approval of plats outside the corporate limits of Atkinson shall be the same as set forth in this section.

Table 13-1: Application Requirements

	ADMINISTRATIVE SUBDIVISION	MINOR SUBDIVISION	MAJOR SUBDIVISION	
			Preliminary	Final
PLAT INFORMATION				
Name, address of owner and applicant.	X	X	X	X
Name, signature, license number, seal and address of engineer, land surveyor, architect, planner, and/or landscape architect, as applicable, involved in preparation of plat.	X	X	X	X
Title block, denoting type of application, tax map sheet, legal description, and general location.	X	X	X	X
Key map, showing location with reference to surrounding property, streets, current street names, City limits, and other features within 1/4 mile of the subdivision boundary.	X	X	X	X
Present and proposed zoning.			X	X
North arrow, date, and graphic scale.	X	X	X	X
Proof that taxes are current.	X	X	X	
Signature blocks for Planning and Zoning Commission Chairman, Administrative Official, and Mayor.	X	X	X	X
Appropriate certification blocks.	X	X	X	X
Monumentation.	X	X		X
Metes and bounds description, including dimensions, bearings, curb data, tangent length, radii, arcs, chords, and central angles for all centerlines and ROW's, and centerline curves on streets.				X
Acreage of tract.	X	X	X	X
Date of original and all revisions.	X	X	X	X
Dimensioning of setbacks.		X	X	X
Location, dimensions, and names of existing and proposed streets.	X	X	X	X
All proposed lot lines, lot dimensions, and lot areas in square feet.	X	X	X	X
Copy of any existing or proposed deed restriction or covenants.		X	Concept	X

Table 13-1: Application Requirements

	ADMINISTRATIVE SUBDIVISION	MINOR SUBDIVISION	MAJOR SUBDIVISION	
			Preliminary	Final
PLAT INFORMATION (continued)				
Existing and proposed easements or land reserved for or dedicated to public use.	X	X	X	X
Phasing plan.			X	X
Payment of application fees.	X	X	X	X
ENVIRONMENTAL INFORMATION				
Property owners and lines within 300 feet.		X	X	
All existing water courses, floodplains, wetlands, habitat areas or other environmentally sensitive features within 200 feet.	X	X	X	X
Survey of trees and wooded areas, (noting size and location of trees) and mature or environmentally sensitive vegetation.		X	X	
Existing ROW's and easements within 200 feet.	X	X	X	X
Topography at five foot contours.		X	X	X
Existing site drainage system.	X	X	X	X
Drainage calculations and percolation tests.			X	X
IMPROVEMENTS & CONSTRUCTION INFORMATION				
Proposed utility infrastructure plans including water, sanitary sewer, and storm water management.			General	Detailed
Sediment/Soil Erosion Control Plan.			X	X
Spot and finished elevations at all property corners.				X
Construction details as required.				X
Road and paving cross-sections.			X	X
Proposed street names.			X	X
New block and lot numbers.	X	X	X	X
Lighting plan and details.			Concept	X
Pedestrian circulation patterns and sidewalk or trail locations.			X	X

Table 13-1: Application Requirements

	ADMINISTRATIVE SUBDIVISION	MINOR SUBDIVISION	MAJOR SUBDIVISION	
			Preliminary	Final
IMPROVEMENTS & CONSTRUCTION INFORMATION (continued)				
Certifications and seals from licensed Professional Engineer, as required by Ordinance.		X		X
Improvement financing plan, including sources of funding (Private, assessments, public, Sanitary and Improvement Districts, and other sources).			X	X
Draft subdivision agreement.			X	
Final subdivision agreement.				X

1303 SUBDIVISION DESIGN CATEGORIES AND GENERAL STANDARDS

1. Purpose. The purpose of this Article is to provide flexible design alternatives in order to assure that subdivisions in the Atkinson area create functional and attractive environments, minimize adverse effects, and become assets to the City's urban and natural setting. The Article defines specific types of subdivisions that have varying design characteristics, applicable to various settings within the City of Atkinson and its jurisdiction.
2. Site Design and Constraints.
 - a. Consideration of Plans. The design of subdivisions shall consider all existing local and regional plans for Atkinson and its Jurisdiction. These include the Comprehensive Development Plan for the City of Atkinson.
 - b. Grading Permit Required.
 - i. A Grading Permit is required for erosion and sediment control on all construction sites greater than 5 acres in size. Prior to grading or site disturbing activity, the developer shall apply to the Zoning Administrator for a grading permit. The application for a grading permit shall include:
 - a) A location map showing the location and extent of grading activity.
 - b) A Sediment and Erosion Control Plan.
 - ii. After submission of a complete application for a grading permit, the Zoning Administrator and his/her staff shall review the application. As part of the review, the Zoning Administrator shall circulate the petition to any agency with statutory authority for the management of drainageways and stormwater management.
 - iii. A grading permit shall be issued within ten working days if the Zoning Administrator has received assurances from applicable state agencies that the Sediment and Erosion Control Plan is compatible with statute, and further that it is compatible with the objectives and policies of the City's Comprehensive Plan and Land Development Ordinance. If the submitted Sediment and Erosion Control Plan is deemed inadequate, the applicant will be given a list of mitigation measures that must be included to ensure conformance. The Zoning Administrator shall issue a grading permit to the applicant upon certification that mitigation measures will be taken as prescribed, consistent with applicable state and federal regulations regarding soil and sediment erosion, and environmental water quality.
 - c. Preservation of Natural Features and Drainage Patterns.
 - i. To the maximum extent possible, development shall be located to preserve natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impact and alteration of natural features and drainage patterns.

- ii. The subdivider shall give maximum consideration to the preservation of the following areas as open space, to the extent consistent with reasonable utilization of land:
 - a) Wetlands and other unique environmental areas, as defined in Section 404, Federal Water Pollution Control Act of 1972 and delineated on wetlands maps prepared by the US Fish and Wildlife Service. Construction and fill activity shall be prohibited on wetlands in excess of one acre in size. Development and fill upon wetlands smaller than once acre in size should be avoided whenever possible, but regulated by permit authority of applicable state and federal agencies.
 - b) Significant stands or mature specimens of trees. Placement of buildings should, as is reasonable, avoid trees taller than 20 feet or larger than four inches in diameter, measured six inches above the ground. Any such tree removed or damaged should be replaced by a species compatible with existing trees, on a one-to-one basis. The number of replacement trees will be limited by what can be reasonably accommodated within the available lot area.
 - c) Flood plain lands, other than areas that have already experienced substantial development.
 - d) Slopes in excess of 15% as measured over a 10-foot interval. Development on slopes over 15% may be permitted only if an erosion and slope stabilization plan is submitted and approved with the development and if appropriate measures are taken in compliance with this approved plan. The City may, at its discretion, require the review and certification of such a plan by a licensed Professional Engineer.
 - e) Habitats of endangered species. Development shall avoid fill or disturbance of habitat sites as identified on federal or state lists administered by the US Fish and Wildlife Service of the US Department of the Interior, and applicable state environmental regulatory agencies. Developers are encouraged to preserve habitat areas as a connected open space consistent with the parks and greenways system designated in the Atkinson Comprehensive Development Plan.
- d. General Guidelines for Subdivision Layout. Subdivisions shall be designed to comply with the following overall performance objectives:
 - i. Avoidance of adverse effects on ground water and aquifer recharge.
 - ii. Reduction and minimizing of cut and fill.
 - iii. Avoidance or reduction of unnecessary impervious surfaces.
 - iv. Prevention of flooding and encroachment of water onto other properties.

- v. Provision of adequate access to lots, including alternative routes to lots and sites within the subdivision and minimizing of cul-de-sacs over 300 feet.
 - vi. Mitigation of negative environmental effects on surrounding properties, including effects of shadow, noise, odor, traffic, drainage, and utilities.
 - vii. Respect for the urban character and traditional layout of Atkinson, including providing continuity to established street and community facility networks; establishing linkages and connections between new development and existing parts of the City; and preserving historically and architecturally significant sites and buildings, determined as those sites or districts either listed on or determined to be eligible for listing on the National Register of Historic Places, as determined by the State Historic Preservation Officer.
 - viii. Dedication of arterial, collector, and key local streets on the general alignments specified in the Comprehensive Development Plan.
 - e. Site Design Objectives and Approval. The Planning Commission and City Council shall take the above Site Design objectives into account during their review and approval of subdivision applications.
3. Subdivision Design Categories and Rules.
- a. Purpose. The purpose of this section is to establish design alternatives that provide greater flexibility in subdivision design and make potential development more consistent with the City's site design objectives and the special features of the natural and built environment of the City of Atkinson and its planning jurisdiction.
 - b. Subdivision Design Categories.
 - i. Definition and Application: A conventional subdivision literally meets all nominal standards of the Land Development Ordinance for lot dimensions, setbacks, street frontage, and other site development regulations. Conventional subdivisions generally develop in areas relatively free of environmental constraints.
 - ii. Creative Subdivision: A creative subdivision complies with the overall density requirements of a zoning district, but allows internal variations of such standards as lot size, setbacks, and street width in order to encourage innovative or economical development or protect natural features and open space without loss of economic yield to developer.
 - c. Creative Subdivisions: Types and Special Regulations:
 - i. Conservation subdivisions allow the clustering or grouping of residential lots in order to provide common open space.
 - ii. Conservation Subdivisions may be developed and approved subject to the following standards and variations:
 - a) The overall density of subdivision complies with the zoning district that contains the final subdivision. A subdivider may

- apply for a rezoning simultaneously with the plat approval process.
- b) Individual lot size dimensions, including lot width, may be reduced up to 60% of requirement of zoning district. Any savings on lot size shall be devoted to common open space or other approved community facilities.
 - c) Lot setbacks may be varied from those otherwise specified for the zoning district. Setback limits must be established on the preliminary and final plat. The setback from any garage entrance to any circulation way must be at least 20 feet.
 - d) Street or right-of-way widths set forth in Article Five may be varied within for local streets within Conservation Subdivisions, subject to the sole discretion of the approving authorities.
 - e) Articles of incorporation or covenants for a homeowners' association or other provision assuring maintenance or operation of all common spaces shall be submitted with subdivision application.

1304 CIRCULATION SYSTEM DESIGN

- 1. Purpose. The purpose of this Article is to assure the development of functional and safe circulation patterns within new subdivisions, in order to encourage economical and effective movement of motor vehicles, bicycles, and pedestrians; provide access for public safety vehicles; and encourage the development of circulation systems that enhance the quality of life within new and existing neighborhoods in the City of Atkinson and its planning jurisdiction.
- 2. General Standards. The design of circulation systems should conform to the following general standards and requirements:
 - a. Roadway System Design.
 - i. The road system shall be designed to permit safe and orderly movement of traffic, to meet but not exceed needs of the present and future served population; to be simple and logical; to respect natural features, topography, and landscape, and to present an attractive streetscape.
 - ii. The system shall conform to the City's Comprehensive Development Plan. For streets not shown on the Comprehensive Development Plan, the arrangement of streets shall provide for the logical extension of existing streets.
 - iii. The street network of a subdivision should provide for logical, continuous extensions of streets to subsequent later developments. Such extensions shall make provision when necessary with a temporary turnaround with a radius of at least 50 feet.
 - iv. The system shall provide adequate traffic flow through a subdivision and provide at least two routes from each lot within

the subdivision to the rest of the City, except as explicitly permitted by the approving authorities. Additionally, the system should be designed to discourage through traffic from using local streets.

- b. Pedestrian and Bicycle Systems.
 - i. A continuous pedestrian system shall be provided within each non-industrial subdivision, designed to conduct pedestrians between every point in the subdivision in a safe manner.
 - ii. In conventional subdivisions, the pedestrian system will ordinarily be provided by sidewalks placed parallel to and on both sides of each street, with exceptions permitted to preserve natural features, create visual interest, or maintain greenways and pedestrian ways proposed in the Atkinson Comprehensive Development Plan.
 - iii. In creative subdivisions, the pedestrian system may be an independent network diverging from streets but providing continuous pedestrian access between all points.
 - iv. All aspects of the pedestrian system, including sidewalks and intersection crossings, must be designed to comply with the Americans with Disabilities Act.
 - v. Bikeways or recreational trails shall be required only if specifically indicated by the Comprehensive Development Plan. Any land dedicated for trail development shall be credited toward the satisfaction of pedestrian system and open space standards set forth by this ordinance.
- 3. Street Hierarchy and Design.
 - a. Characteristics of the Hierarchy.
 - i. Streets shall be classified according to a street hierarchy with design tailored to function.
 - ii. The street hierarchy shall be defined by road function and projected average daily traffic (ADT), as calculated by trip generation rates prepared by the Institute of Transportation Engineers or other generally accepted standards.
 - iii. Each residential street shall be classified and designed to meet appropriate standards for its entire length.
 - iv. The applicant shall demonstrate to the satisfaction of the approving agencies that the distribution of traffic created by the subdivision will not exceed the design capacity of the proposed street system and its individual segments.
 - v. The categories, functions, and projected traffic loads of the street hierarchy are set forth in Table 13-2.
 - b. Cartway Width
 - i. Cartway width for each street classification is determined by parking and curbing requirements based on form or intensity of adjacent development.

- ii. To promote economical development of streets, minimum cartway width should generally be used. Minimum cartway widths are set forth in Table 13-3.
- c. Curbs, Gutters, and Shoulders
 - i. Curbing shall be required for the purposes of safety, drainage, and protection of the pavement edge, as set forth in Table 13-4.
 - ii. Requirements for curbs vary according to street function and the nature of adjacent development. Adjacent development is defined as urban or rural as follows:
 - i. Rural: Residential or predominately agricultural land use where average lot frontage exceeds 150 feet.
 - ii. Urban: Residential land use where average lot frontage is less than or equal to 150 feet; or adjacent land uses include commercial, office, industrial, or civic use types.
 - iii. Where curbing is not required, edge definition and stabilization shall be provided.
 - iv. Where curbing is required, shoulders and drainage swales may be used only if soils or topography make the provision of shoulders preferable to curbs; or where the character of an area is preserved by the use of shoulders and drainage swales.
 - v. Shoulders, when developed, shall be at least eight feet in width on each side for all streets; and located within right-of-way. Swale width is site-specific. Shoulders shall consist of stabilized turf or other acceptable material.
 - vi. All curbs shall provide ramps for accessibility by handicapped people consistent with the requirements of the Americans with Disabilities Act.
 - vii. Curb construction shall follow standards established by the City of Atkinson.
- d. Sidewalks
 - i. Sidewalk requirements are determined by road classification and intensity of development, as set forth in Table 13-4.
 - ii. Where sidewalks are not otherwise required by Table 13-4, the City may require their installation if necessary to accommodate pedestrian traffic at major community features; to continue a walk on an adjacent street; to link parts of the City; or to accommodate future development.
 - iii. In conventional development, sidewalks shall be placed generally parallel to streets within right-of-way. Exceptions are possible to preserve important natural features or to accommodate topography or vegetation; when applicant shows an alternative for a safe and convenient pedestrian system; or in creative subdivisions.
 - iv. In commercial areas, sidewalks may abut curb.
 - v. Pedestrian rights-of-way at least 15 feet in width may be required through the center of blocks over 600 feet in length if deemed

- necessary by the approving authorities to provide access to schools or community facilities; or to maintain a continuous pedestrian network within and between subdivisions and districts of the City of Atkinson and its jurisdiction. Such rights-of-way shall be dedicated to the public in the same manner as streets.
- vi. Sidewalks shall provide a clear path of at least four foot in width, free of any obstructions.
 - vii. All sidewalks shall be constructed according to current standards in use by the City of Atkinson. Sidewalks shall be of concrete construction four inches thick except at points of vehicular crossing where they shall be six inches thick. Sidewalks shall be reinforced with a wire mesh or equivalent.
 - viii. All sidewalks, crossings, and other segments of a continuous pedestrian system must comply with standards of the Americans with Disabilities Act.
- e. Bikeways and Recreational Trails.
- i. Bikeways and recreational trails shall be required in subdivisions only when specified as part of the comprehensive development plan.
 - ii. All off-street recreational trails shall be a minimum of eight feet in width for two-way traffic and comply with the Americans with Disabilities Act. Surfacing of trails shall be acceptable to the City of Atkinson. Gradients for bikeways and recreational trails should not exceed five percent, except for short distances.
 - iii. Recreational trails may satisfy part of the requirements of this ordinance for sidewalks or open space.
 - iv. All residential streets shall utilize bicycle safe drainage grates at storm sewer inlets.
- f. Right-of-Way.
- i. Measurement: The right-of-way of a street shall be measured from lot line to lot line, and shall be wide enough to contain the cartway, curbs or shoulder, sidewalks and sidewalk setbacks, other necessary graded areas, and utilities.
 - ii. Any right-of-way that continues an existing street shall be no less than that of the existing street.
 - iii. The requirements for right-of-ways for functional categories of roads is set forth in Table 13-4.
 - iv. Dedications: Dedications of right-of-way for collector, subcollector, community, or arterial streets shall be made consistent with the comprehensive development plan.

g. Street Design Standards.

i. Pavement:

- a) All streets shall be paved to current standards utilized in the City of Atkinson except:

Local streets in rural subdivisions. Rural subdivisions may utilize 6-inch P.C.C.P. non-reinforced paving. Alternatively, streets may utilize a gravel or crushed rock surface of sufficient thickness and with an adequate base to provide a durable surface. This permission is subject to submission of a petition by the platting owners binding themselves and all succeeding property owners to agree that all paving would be completed by a special assessment project if the subdivision were annexed by the City. Such petition shall waive any required resolution of necessity, any applicable limitations of the amount which could be assessed against subdivision property owners including intersection costs, and other costs normally paid by the City in special assessment projects.

Courts or lanes, may utilize six-inch concrete, provided that such courts or lanes remain in private or private cooperative ownership.

- b) Street pavement thickness shall relate to the role of the street in the hierarchy, subgrade conditions, and pavement type.

ii. Continuity of Arterial or Collector Streets. No subdivision shall prevent the extension of arterial or collector streets through and beyond the subdivision. The subdivider may plan and design collector streets not designated in the Comprehensive Development Plan subject to the approval of the City Council.

iii. Cul-de-sacs

- a) Cul-de-sac streets designed to have one end permanently closed shall not exceed 300 feet in length and shall be designed so that vision from entrance to end is not restricted.

- b) The closed end of a cul-de-sac within a conventional subdivision shall have a turnaround with a street property line diameter of at least 130 feet in residential subdivisions. This diameter may be increased by the Planning Commission if deemed necessary in the case of a commercial or industrial subdivision.

iv. Street Grades. Maximum permitted street grades are set forth in Table 13-3. In typical circumstances, the minimum permitted street gradient shall be 1.0%. In exceptional circumstances, the City Engineer may permit street gradients of less than 1.0%; however, under no circumstances may the gradient be less than 0.4%.

- v. Street Intersections
 - a) Streets shall intersect as nearly at right angles as possible, unless limited by topography, existing street alignments, or other clearly defined constraints.
 - b) In most cases, no more than two streets should intersect at a single intersection.
 - c) Local streets shall not provide intersections with major arterials.
 - d) New intersections along one side of an existing or proposed street shall, if possible, align with intersections on the other side of the street. Offsets between adjacent intersections shall measure at least 150 feet between centerlines. The use of T-intersections is encouraged on local streets within the interior of a subdivision.
 - e) Intersection design standards are set forth in Table 13-3.
 - vi. Block Size
 - a) The length, widths, and shapes of blocks shall be suited to the proposed land use and design of the proposed subdivision. Blocks within urban subdivisions shall not exceed 600 feet in length, unless necessitated by exceptional topography or other demonstrable constraints. Blocks within rural subdivisions shall not exceed 1,320 feet
 - vii. Other design standards shall be as set forth in Table 13-5.
4. Lighting and Wiring
- a. Underground Wiring
 - i. All electric, telephone, television, cable TV, and other communication lines shall be provided by underground wiring within easements or public right-of-way, except where in the opinion of the approving authorities, such location is not feasible. Poles for permitted overhead lines shall be placed in rear lot line easements; or in other locations designed to lessen their visual impact.
 - ii. New lots adjacent to existing overhead service may utilize that service; however, new local service connections shall be underground.
 - iii. Year-round screening of any above ground utility apparatus is required.

Table 13-2: Street Hierarchy

Residential Street Type	Function	Guideline Maximum ADT
Lane, Court, or Cul-de-sac	Street providing private or controlled access to no more than twelve housing units.	120-150
Local	Provides frontage to lots and carries traffic with origin or destination on street itself. Carries least traffic at lowest speed. East-west orientation provides best solar access. Local residential streets usually do not interconnect with adjoining neighborhoods or subdivisions.	250-1,000
Collector	Conducts and distributes traffic between local streets and major streets in the community. Carries larger volume of traffic. Residential collectors interconnect and provide through access between residential neighborhoods. Collector streets should preserve one through traffic lane in each direction, without encroachment by parking. Collectors may be included in the City's Surface Transportation Program system for federal aid.	1,000-2,500
Minor Arterials	Provides community wide access between residential neighborhoods and to other activity centers in Atkinson, including downtown and major commercial facilities. Direct access may be provided to other arterial streets. Parking should generally be prohibited on other arterials. Other arterials should be excluded from residential areas. These streets are part of the Surface Transportation Program system for federal aid.	2,500-7,500
Major Arterials	Inter-regional road in the street hierarchy. Conveys traffic between activity centers, often at high speeds and with limited access. Should be excluded from residential areas. These streets are part of the Surface Transportation Program system for federal aid.	7,500+

Table 13-3: Cartway Width, Grade, and Intersection Standards

Residential Street Type	Moving Lanes	Parking Restrictions	Maximum Grade	Cartway Width	Minimum Curb Radii
Lane or Court	Two, 11-foot	No restriction	8% (5%)*	22 feet	25 ft. (Note 1)
Cul-de-sac	Two, 11-foot	No restriction	8% (5%)*	25 feet	25 ft. (Note 1)
Local					
Urban Local	Two, 11-foot	No Restriction	8% (5%)*	28 feet	25 ft. (Note 1)
Rural Local	Two, 11-foot	No restriction	8%	28 feet	25 ft. (Note 1)
Collector					
No parking	Two, 12-foot	No parking	All Types:	28 feet	All Types:
One-side parking	Two, 12-foot	One side only	8% (5%)	32 feet	35 feet
Two-side parking	Two, 12-foot	No restriction		36 feet	Note 1
Arterials	Note 2	Note 2	6%	Note 2	Note 2

* Denotes Maximum Street Grade Within 50 Feet of an Intersection

Note 1: Intersections shall be rounded at the curb line, with the street having the highest radius requirement as shown in Table 13-3 determining the minimum standard for all curb lines.

Note 2: Arterial street width, grade, and curb radii are determined by state standards and the designation of individual street or roadway segments.

Table 13-4: Curb, Sidewalk, And Right-Of-Way Requirements

Street Type	Cartway Width	Curb/ Shoulder	Sidewalk	Sidewalk Setback	Total ROW
Lane or Court	22 feet	Not Required	Required	NA	50 feet
Cul-de-sac	25 feet	Required	Required	6 feet	50 ft. at approach 100 ft. diameter
Local					
Urban	28 feet	Curb	Both sides	6 feet	60 feet
Rural	28 feet	Not Required	Not Required	NA	60 feet
Collector					
Rural	28 feet	Not Required	Not Required	NA	80 feet
Urban					
No parking	28 feet	Curb	Both Sides	8 feet	80 feet *
One-side parking	32 feet	Curb	Both Sides	8 feet	80 feet*
Two-side parking	36 feet	Curb	Both Sides	8 feet	80 feet*
Arterials					
Urban and Rural	Note 1	Note 1	Note 1	8 feet	100 ft. minimum

* Right-of-way widths for these classes of street may be modified within the Creative Subdivisions.

Note 1: Arterial street width, grade, and curb radii are determined by state standards and the designation of individual street or roadway segments.

Table 13-5: Required Curve Radii

Street Type	Minimum radius of horizontal curbs	Minimum sight distance on vertical curbs
Lane or Court	70 feet	NA
Local	135 feet	200 feet
Collector	250 feet	300 feet
Arterials	500 feet	350 feet

1305 PUBLIC IMPROVEMENTS AND INFRASTRUCTURE

1. Purpose. The purpose of this Article is to assure that all subdivisions developed in the City of Atkinson and its jurisdiction are adequately furnished with necessary public services. These services include adequate water, waste management, and storm water drainage utilities; and park and open space resources.

2. Water

a. Connection

- i. All installations shall be properly connected to an approved and functioning community water system, constructed in conformance with the applicable design standards of the City.
- ii. Depending on the number of units, residential subdivisions shall be connected to an existing public water supply system if such a system is available within the following distances:

<u>Size of Development</u>	<u>Distance</u>
1 unit	200 feet
2 units	400 feet
3 units	600 feet
4 units	800 feet
5-15 units	1,000 feet
15 units and over	0.5 miles

Developments with more than 15 units and located within 0.5 mile of an existing public water system must provide adequate justification as to why they are unable to connect to such a system. For developments with more than 15 units and located more than 0.5 mile from a public water supply, the water supply strategy shall be considered by the approving authorities on a case-by-case basis.

- iii. All proposals for new water supplies, extensions, or main installation shall be approved by the City of Atkinson.

b. Capacity

- i. The water supply system shall be adequate to handle the necessary flow, based on complete development of the subdivision.
- ii. The demand rates for all uses, including emergency fire demand, shall be included in the computation of total water demand.
- iii. Fire protection shall be furnished for any development connected to the municipal water system. Computation of minimum fire flows shall be based on calculations of the American Insurance Association and National Board of Fire Underwriters.
- iv. Hydrants spaced for necessary fire flow and provided with adequate means of drainage as approved by the City Engineer and Fire Chief. All lines serving hydrants shall be at least six inches in

- diameter, should be circulating lines, and should carry appropriate state approvals.
- v. Installation of water systems shall conform to community design standards in use within the City of Atkinson.
- vi. A certification from a registered Professional Engineer shall be filed with the City of Atkinson certifying that the water supply system of the subdivision is designed and constructed in accordance with the requirements of this Section; and all applicable standards of the State of Nebraska. This certification shall be affixed to an accurate set of "as-built" system plans.
- vii. All state requirements shall be met and approvals from the Department of Environmental Quality shall be obtained for all water systems.
- c. Private or Community Well Systems. If the development does not meet the required criteria for connection to a public water system or for reasons of topography, economic feasibility, or other special condition proposes water service by a community and/or private well, the developer shall request a variance according the following provisions:
 - i. The developer shall submit with the preliminary plat application an Economic Feasibility Study Report and an Environmental Impact Study report, prepared by a Professional Engineer, which documents the cost of providing City water service to the subdivision versus the cost of the proposed well system.
 - ii. If a well system is approved by the City with the preliminary plat approval, the system shall be designed and built in accordance with regulations of the City Engineer and the Nebraska Department of Environmental Quality. Both agencies shall approve its construction before the City issues Certificates of Occupancy for any buildings in the subdivision.
 - iii. If a public water supply system is proposed to be provided to an area within a ten-year period from the time of platting, as indicated in an officially adopted document of the City or other authorized agency, the City may require installation of a capped system or dry lines. Alternately, the City may require a payment in lieu of the improvement, to be credited toward the extension and extension of the subdivision to a future public water supply.
 - iv. City approval to install a community and/or private well system shall be allowed subject to the following additional provisions:
 - a) The system, including all distribution lines, hydrants, valves, and appurtenances, shall remain the property of the Developer and/or Homeowners' Association.
 - b) The developer and all successive lot owners shall agree to connect to the City water system if installed to the subdivision. Such connection shall not be required for ten years after the date of construction of the initial well system.
 - c) With connection to the City water system, all existing lot owners shall be required to disconnect from and abandon the pre-existing well system in conformance with all local and State standards and shall share equally in the cost of such

disconnection. Disconnection and abandonment shall be completed within six months after connection to the City water system.

3. Sanitary Sewers

a. Connection

- i. All installations shall be properly connected to an approved and functioning sanitary sewer system prior to issuance of a certificate of occupancy.
- ii. Depending on the number of units, residential subdivisions shall be connected to an existing public sanitary sewer system if such a system is available, by gravity service or lift station, within the following distances:

Size of Development	Distance
1 unit	200 feet
2 units	400 feet
3 units	600 feet
4 units	800 feet
5-15 units	1,000 feet
15 units and over	0.5 miles

Developments with more than 15 units and located within 0.5 mile of an existing public sanitary sewer system must provide adequate justification as to why they are unable to connect to such a system. For developments with more than 15 units and located more than 0.5 mile from a public sanitary sewer system, the waste disposal strategy shall be considered by the approving authorities on a case-by-case basis

- iii. If the City creates a benefit fund for the purpose of financing public extensions of sanitary interceptor sewers to newly developing areas, each subdivision to be benefitted by such extensions shall contribute to such a fund. Subdivisions within the City limits of Atkinson at the time of platting; or subdivisions currently served by existing sanitary sewer service shall be exempt from this requirement. Contributions to the fund shall be computed on the basis of proportionate costs and benefits of necessary extensions. Assessments shall be made on a per lot basis for single-family development; a pre-unit basis for multi-family residential development; and a site area basis for non-residential development.
- iv. All proposals for new public sanitary sewer systems or extensions of existing systems shall be approved by appropriate public agencies.

- v. All state requirements shall be met and approvals from the Department of Environmental Quality or other appropriate state agencies shall be obtained for all waste disposal systems.
- b. Capacity
 - i. The sanitary sewer system shall be adequate to handle the necessary flow, based on complete development of the subdivision.
 - ii. Installation of sanitary sewer systems shall conform to community design standards in use within the City of Atkinson.
 - iii. A certification from a registered Professional Engineer shall be filed with the City of Atkinson certifying that the sanitary sewer system of the subdivision is designed and constructed in accordance with the requirements of this Section; and all applicable standards of the State of Nebraska. This certification shall be affixed to an accurate set of "as-built" system plans.
- c. Private Wastewater Disposal Systems. If the development does not meet the required criteria for connection to a public sanitary sewer system and gravity sewer service connections, or if for reasons of topography, economic feasibility, or other special conditions, the developer proposes service by a private wastewater disposal system, the developer shall request a variance according the following provisions:
 - i. Subsurface or septic systems are not permissible on any lot created after the effective date of this Ordinance if the gross density of the subdivision is higher than one unit per 1.5 acres; if individual lots are smaller than one acre; or in any urban subdivision.
 - ii. The developer shall submit with the preliminary plat application an Economic Feasibility Study Report and an Environmental Impact Study report, prepared by a Professional Engineer, which documents the cost of providing City sewer service to the subdivision versus the cost of the proposed private disposal system. The preliminary plat application shall also show the proposed system for each lot and shall submit percolation tests for each lot, taken at the proposed adsorption field sites to determine the size of the field required for each lot.
 - iii. The City shall consider all these submittals in determining whether to permit installation of private wastewater disposal systems for the subdivision.
 - iv. If a private wastewater disposal system is approved by the City with the preliminary plat approval, the system shall be designed and built in accordance with regulations of the Nebraska Department of Environmental Quality. The developer's Professional Engineer shall furnish the City with three certified copies of as-built plans showing service line locations and final sewer and maintenance access locations, lengths, elevations, and grades.

- v. If a sanitary sewer system is to be provided to an area within a ten-year period, as indicated in an officially adopted document of the City, the County, or other authorized agency, the City may require installation of a capped system or dry lines. Alternately, the City may require a payment in lieu of the improvement, to be credited toward the extension and extension of the subdivision of a future sanitary sewer system.
 - vi. City approval to install a community and/or private wastewater disposal system shall be allowed subject to the following additional provisions:
 - a) The developer and all successive lot owners shall agree to connect to the City sanitary sewer system if installed to the corner of their lot. Such connection shall not be required for ten years after the date of construction of the initial wastewater disposal system.
 - b) With connection to the City sanitary sewer system, all existing lot owners shall be required to disconnect from and abandon the pre-existing wastewater disposal system in conformance with all local and State standards and shall share equally in the cost of such disconnection. Disconnection and abandonment shall be completed within six months after connection to the City sanitary sewer system.
4. Storm Water Management
- a. Design
 - i. All subdivisions shall have a storm water management system that is adequate to prevent the undue or unplanned retention of storm water on the site. Undue retention does not include:
 - a) Retention through planned facilities.
 - b) Retention not substantially different from pre-existing conditions.
 - ii. The design of the storm water management system shall be consistent with general and specific concerns and standards of the Comprehensive Development Plan and the drainage control programs of applicable public agencies. Design shall be based on environmentally sound site planning and engineering techniques.
 - iii. To maximum degree possible, drainage from subdivisions shall conform to natural contours of land and not disturb pre-existing drainageways.
 - iv. Adjacent properties shall not be unduly burdened with surface water from the subdivision. Specifically:
 - a) There may be no unreasonable impediment of water from higher adjacent properties across the subdivision, causing damage to lower properties.
 - b) No action shall unreasonably collect and channel storm water onto lower properties. The volume or rate of post-development run off shall not exceed the amount of pre-development runoff,

and is to be managed in a manner consistent with Nebraska statute and existing case law regarding such flows.

- v. Design shall use the best available technology to minimize off-site runoff, encourage natural filtration, simulate natural drainage, and minimize discharge of pollutants. Best available technology may include retention basins, swales, porous paving, and terracing.
 - vi. No surface water may be channeled into a sanitary sewer system.
 - vii. Where possible, a subdivision's drainage system shall coordinate with that of surrounding properties or streets.
 - viii. All storm water design shall be reviewed and approved by the City Engineer. The preliminary plat submission must include preliminary drainage computations and demonstrations that the proposed storm water management system meets the requirements of this Section. A certification from a registered Professional Engineer shall be filed with the City of Atkinson certifying that the storm water management system of the subdivision is designed and constructed in accordance with the requirements of this Section; and all applicable standards of the State of Nebraska. This certification shall be affixed to an accurate set of "as-built" system plans.
- b. Erosion Control. With the submission of the preliminary plat, the subdivider shall submit an erosion control plan, prepared and certified by a licensed Professional Engineer, for any land disturbing activity. All grading activities must be carried out consistent with this approved erosion control plan.
5. Developer Agreements
- a. Developer Agreements May Establish Time and Manner of Compliance. The City may enter into a Developer Agreement with any subdivider which sets forth the time and manner of compliance with the terms of this Section and implementation of any other provisions of these regulations.
 - b. Prior Development Agreements. If any developer agreement has previously been entered into between the City and a subdivider, and that Agreement remains in full force and effect, the provisions of that agreement shall control, and this Section shall have no force and effect, provided that the subdivider complies with the terms of such Agreement. However, if such subdivider is not complying with the terms of that Agreement then the provisions of this Section shall apply and the City shall utilize the criteria set forth herein to determine the appropriate exaction amount, less credits, if any.

Further, if the development contemplated by a subdivider has either increased in number of units or has otherwise increased the demand for park and recreation facilities, then the developer Agreement previously entered into between the subdivider and the City shall be amended and

the subdivider shall provide additional land, or a pro-rata fee, based on the provisions of this Section, less credits, if any.

6. Easements
 - a. Utility Easements
 - i. Urban Subdivisions: Easements for utilities shall be provided for in the subdivision dedication allowing for the construction, maintenance, repair, and replacement of utilities. Such easements shall be at least 10 feet in width, centered on the lot lines, and shall be provided along:
 - a) All rear property lines.
 - b) Side property lines where necessary to provide a continuous easement.
 - ii. Easements of greater width may be required along lot lines or across lots. Easements of lesser width may be approved if accepted by utility providers. Easements shall connect with easements on adjoining properties.
 - iii. Easements shall be approved in writing by any appropriate public or private utility provider intending to use such easement for their facilities. Such approval shall be submitted prior to final plat approval.
 - iv. Rural Subdivisions: Easements for utilities shall be placed within street rights-of-way, without requirements for additional utility easements.
 - b. Drainage Easements. Where a subdivision is crossed by a watercourse, drainageway, channel, or stream, a storm water easement or drainage right-of-way shall be provided. It shall correspond generally with the extent of such watercourse, together with any additional construction or expansion necessary to allow it to conduct storm water adequately. Easements shall extend not less than 20 feet on each side from the centerline of the waterway. The total width of any easement shall be sufficient to cover the 100-year flood plain calculated for a fully developed upstream drainage basin. Parallel streets or parkways may be utilized to preserve such drainageways.
 - c. Setback Requirements for Structures Adjacent to Creeks and Drainageways
 - i. In addition to other applicable provisions of City ordinances, no persons shall be granted a permit for the construction of any structure, exclusive of fences, bank stabilization structures, signs, and non-related parking areas adjacent to any creek or stream unless such structure is located so that no portion thereof is any closer to the stream than will allow a maximum 3:1 slope between the water's edge (during normal flow conditions) of the stream and the closest point of the structure at-grade.
 - ii. An exemption from the provisions of Sub-section (1) above may be granted if all of the following conditions are met and required certification is filed with the City of Atkinson:

- a) Certification by a registered professional engineer or architect that adequate bank stabilization structures or slope protection will be installed in the construction of said structure, having an estimated useful life equal to that of the structure, which will provide adequate lateral support so that no portion of the structure adjacent to the stream will be endangered by erosion or lack of lateral support.
 - b) Certification shall be affixed to an accurate set of "as-built" construction plans for the structure, as well as "as-built" plans of depicting any bank stabilization or slope protection measures or structures.
 - c) In the event that the structure is adjacent to any stream that has been channelized or otherwise improved by any agency of government, then such certification providing this exemption must take the form of a certification as to the adequacy and protection of the improvements installed by such governmental unit.
 - d. Other Easements. The subdivision shall provide easements for other public utilities that cross through it, in a form acceptable to the City or appropriate public agency.
7. Dedications. Before final plat approval is granted to the subdivision, dedications to public use of all streets, alleys, other public right-of-ways, or other parks and public lands shall be completed as required by this Ordinance.

1306 IMPROVEMENT FINANCING AND GUARANTEES

- 1. Purpose. The purpose of this Article is to ensure the equitable financing and proper installation and maintenance of required streets, utilities, and other improvements. The guarantee shall be structured to provide adequate assurances to the City while not adding unnecessary costs to the developer.
- 2. Application. This article applies to subdivisions which require the installation of streets, utilities, or other public improvements by the City or developer.
- 3. Responsibility of Subdivider. The subdivider shall be responsible for the installation and/or construction of all improvements required by this Ordinance and shall warrant the design, materials, workmanship, construction, and performance of such improvements for two years after the date of completion.
- 4. Subdivision Agreement.
 - a. Condition for Approval of Plat. As a condition for final approval, each subdivision plat must include a subdivision agreement entered into between the City of Atkinson, the subdivider, and, if applicable, a Sanitary and Improvement District (the District). Additionally, no contract for the construction of public improvements involving a subdivision within the extraterritorial jurisdiction but outside the

corporate limits of Atkinson shall be awarded without the approval of such an agreement.

- b. Components of the Agreement. The agreement shall include provisions for the financing and distribution of responsibilities among the City, the subdivider, and the District for land acquisition, design, and installation of public improvements. The agreement shall also state specifically how public services will be provided in the subdivision prior to annexation by the City. It shall further include a statement reflecting an understanding that the District is a temporary mechanism to finance public improvements and that it is the eventual intent of the District to be annexed by the City following satisfactory retirement of its general obligation debt.
- c. Rules for Distributing Improvement Costs. Generally, the following rules shall be followed in distributing costs for public improvements:
 - i. Public Costs. Allowable public costs will be those items that have demonstrable benefit to the general public. These items may include:
 - a) Pavement width in excess of 28 feet for streets designated as collector or arterial streets in the Atkinson Comprehensive Development Plan or any subsequent amendment thereof. On collector and arterial streets requiring a higher standard of paving than normal, the additional cost shall be borne by the City or other public agency.
 - b) The incremental cost of water mains over six inches.
 - c) Oversized storm sewers or drainage structures required to serve other areas in the watershed. Such expenses may also be assessed on an area basis to properties served by the improvement.
 - d) Sanitary outfall sewers or water lines outside of the limits of a subdivision that serve areas larger than that of the subdivision, provided that such extension is consistent with the sequencing of development specified in the Comprehensive Development Plan.
 - e) The additional costs of sanitary sewers over 8 inches in diameter, when such sewers are required by the City.
 - f) Park and recreation facilities consistent with the Comprehensive Development Plan.
 - g) Those costs required to be paid by the City for extension of water and sewer lines, pursuant to the Atkinson Municipal Code.

- ii. Private Costs. Allowable special assessment costs will be those items that have direct benefit primarily to adjacent properties. These items may include:
 - a) The entire cost of grading street rights-of-way, including intersections.
 - b) All sanitary sewer lines serving the subdivision up to 8 inches and water lines serving the subdivision up to 6 inches.
 - c) All paving and street construction, including curbs and gutters, up to a cartway width of 28 feet.
 - d) A stormwater management system adequate to provide for the collection, retention, and removal of surface runoff, extending to the boundaries of the subdivision.
 - e) Sidewalks as required by this Ordinance. Construction of sidewalks may be delayed until after completion of site grading and construction, but must be completed prior to occupancy of the structure.
 - f) The contract charge for underground electrical and gas service.
 - g) An iron rod not less than one-half inch in diameter and 24 inches in length as follows:

Set in concrete three feet deep at the intersection of all lines forming angles in the boundary of the subdivision and at all street intersections.

At lot corners and changes in direction of block and lot boundaries.
 - h) Those costs required to be paid by the developer for extension of water and sewer lines, pursuant to the Atkinson Municipal Code.
 - iii. The subdivider in lieu of installing and constructing said improvements at his/her expense may, along with all owners of property to be affected by such improvements and all perfected lienholders, petition the Council to cause the construction of such improvements. This petition shall waive any required resolution of necessity, any applicable limitations of the amount which could be assessed against subdivision property owners including intersection costs, and other costs normally paid by the City in special assessment projects.
5. Subdivisions Contiguous with City. Unless otherwise provided as a specific part of the subdivision approval by the City, all subdivisions now or hereafter laid out adjoining or contiguous to the corporate limits of the City shall be included within such corporate limits and become a part of the City of Atkinson. The residents of the subdivision shall be entitled to all the rights and privileges and subject to all laws, ordinances, rules, and regulations of the City of Atkinson.

6. Performance Guarantees.
 - a. As a condition of the final approval of the plat and prior to its recording with the Holt County Register of Deeds, the City Council shall require and accept the following:
 - i. The furnishing of a performance bond, letter of credit, cash escrow, or other guarantee in a form acceptable to the City, in an amount not to exceed 120% of the estimated cost of the improvement installation.
 - ii. A specification of the time allowed for the installation of improvements. This period may be extended by the City Council.
 - iii. The performance guarantee amount and requirement, along with the permitted time for installation, shall be included within the Subdivision Agreement negotiated between the City and the Developer and approved with the Final Plat.
7. Notification of Completion and Acceptance by City.
 - a. Notification. Upon substantial completion of all required improvements, the developer shall notify the City Engineer in writing, as well as submitting a certification from a registered Professional Engineer, attesting to the adequacy of the installation. The term "City Engineer" shall include a consulting engineer retained on a regular basis by the City to review development applications and perform various engineering services.
 - b. Inspection and Acceptance.
 - i. The City Engineer shall inspect all installations, and shall approve, partially approve, or disapprove the installation. Upon completion of improvements, he/she shall file a statement with the City Council and Zoning Administrator certifying that the improvements have been completed satisfactorily or listing the defects in the improvements.
 - ii. If the installation is approved, the City Engineer shall notify the Developer of acceptance in writing. Such acceptance shall release the developer from liability pursuant to the performance guarantee for the installation. The City has the right to retain up to 10% of the value of the performance guarantee for a period of up to one year from the date of acceptance to remedy any deficiencies which appear during that period.
 - iii. If improvements are not accepted or not completed within the specified time, the performance guarantee shall be forfeited and used by the City to complete satisfactory installation of improvements.
 - iv. No residential occupancy permits shall be issued for a subdivision unless the installation of improvements has been inspected and approved in full by the City Engineer.

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