

# CHAPTER 29

## ZONING ORDINANCE

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### PLANNING & ZONING FEE SCHEDULE:

<u>ZONING REQUEST</u>	<u>FEE</u>
A. ANNEXATION PETITION	\$300 and \$45.00 per Acre
B. CONDITIONAL USE PERMITS	\$200
C. SPECIAL USE PERMITS	\$400
D. REZONING	\$300 and \$45.00 per Acre
E. LOT SPLIT ( <i>Commercial or Residential</i> )	\$400
F. LOT LINE ADJUSTMENT	\$150
G. VACATION OF STREET/ALLEY/R-O-W	\$325
H. VARIANCE	\$ 95 Residential/\$325 Others
I. SIGN PERMITS *Fee based on valuation of Sign & Support.	\$ 35 Minimum Fee*

*The fees described above are due when application is made and are non-refundable. The applicant is required to pay these fees to cover the City's expenses incurred during the application process. Fees not listed above for other types of applications will be found in Article 21 – Subdivision Ordinance.*

## **ARTICLE 1: TITLE, PURPOSE & INTENT**

**Section 1. Title** This Ordinance shall be known as the "City of Buffalo Zoning Ordinance" except as referred to and cited herein, where it shall be known as "this" or "the" Ordinance.

**Section 2. Purpose** The regulations and restrictions hereinafter provided were created in accordance with the City of Buffalo Comprehensive Master Plan, duly adopted and approved and are intended to create orderly, harmonious, and economically sound development. These regulations and restrictions are designed to promote the public health, safety and general welfare; to secure adequate light, space and safety from fire and other dangers, to conserve property values; to prevent undue congestion of structures, streets, land and population; to preserve schools, parks, and other public necessities; to divide the City into zoning districts which restrict and regulate the location and use of structures and land, whether for residential, commercial, industrial, or other specified uses.

### **Section 3. Application of the Zoning Ordinance**

**A.** All property within the City limits, except that property exempted by law, is governed by this ordinance according to the zoning district in which it is located.

**B.** No building or land shall be used, occupied, erected, moved, or altered unless it complies with the regulations specified for the zoning district in which it is located. No building shall exceed the height, accommodate a greater number of families, occupy a greater percentage of land area, or have smaller yards or setbacks than specified for the zoning district in which it is located. No part of a yard, off-street parking space, or other open space required for a building shall be included as part of a yard, off-street parking space or other open space required for another building.

**Section 4. Authority and Jurisdiction** This Ordinance is enacted for the purpose of establishing and carrying into effect the powers, duties and privileges conferred upon the City of Buffalo in, under and by Act of the Wyoming Statutes Annotated, together with acts mandatory thereof and supplementary thereto.

**Section 5. Interpretations and Conflicts** It is not intended by this Ordinance to interfere with, or abrogate and annul any ordinance, rules, regulations, or permits previously adopted or issued, and not in conflict with any of the provisions of this Ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, and likewise not in conflict with this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, except that if this Ordinance imposes a greater restriction this Ordinance shall control.

**Section 6. Severability** If any part of this Ordinance or a Permit issued as a part thereof is declared unconstitutional, unenforceable or invalid, the validity of the remaining parts shall not be affected since it is the intent of the City of Buffalo to pass each part separately and independently of every other part.

## **ARTICLE 2: ADMINISTRATION OF ZONING ORDINANCE**

**Section 1. Organization** *The administration of this Ordinance is hereby vested in the P & Z Staff, the P & Z Commission and the Buffalo City Council.*

**Section 2. Administration** *The P & Z Staff shall administer and enforce the provisions of this Ordinance. In performing their duties, they shall:*

**A.** Receive, review and analyze all zoning applications and research and prepare all zoning case descriptions which apply to this Ordinance, which are to be heard by the P & Z Commission and/or City Council.

**B.** Make final determinations on all boundary adjustments and summary plats where two or more lots are consolidated into one lot of record, under single ownership, and where summary plat does not change or alter any public rights-of-way or easements.

**C.** Report determinations concerning all cases heard by the P & Z Commission to the City Council.

**D.** Receive and file copies of written requests for appeals by person(s) aggrieved with cases heard by the P & Z Commission and any other matters relating to the administration and enforcement of this Ordinance, and transmit same to the City Council.

**E.** Cause inspections of buildings, structures, and uses of land to determine compliance with the provisions of this Ordinance, and where there are violations, initiate action and follow-through to secure compliance.

- F. Coordinate and administer all site plan reviews for new residential-commercial, commercial and industrial construction to determine if construction complies with the provisions of this and other City ordinances and City Building Codes.
- G. Maintain permanent records of all current and past comprehensive master plans, zoning ordinances, maps, zone changes, special uses, variances, conditional uses, amendments to this ordinance, non-conforming uses, appeals, and applications, to include the recording of zoning district amendments and special uses on the official zoning map.
- H. Decide or make recommendations on all other matters under this Ordinance upon which the P & Z Staff is required to act upon on a daily basis.
- I. Provide such technical assistance as may be required by the P & Z Commission or the City Council in the exercise of their respective duties.
- J. Provide public information services relative to matters arising out of this Ordinance.

**Section 3. P & Z Commission *The P & Z Commission, being duly appointed, shall:***

- A. Receive, hear, and make final determinations on all major, minor and condominium subdivision preliminary plats, lot splits, summary plats, zone changes, variances and special use and conditional use permit applications.
- B. Receive, hear, and make recommendations to City Council on all major, minor and condominium subdivision final plats, annexations, and amendments to this Ordinance which come before them in the manner prescribed by the procedures established herein and report determinations and/or make recommendations to City Council.
- C. Receive and hear all written requests for appeals by any person(s) aggrieved with the P & Z Staff's decision concerning and related to the administration and enforcement of this Ordinance.
- D. Instruct the City Planner, from time to time, to make or initiate studies and draft reports concerning issues arising from this Ordinance and from other planning and zoning practices.

**Section 4. City Council *The City Council, being duly elected, shall:***

- A. Receive recommendations from the P & Z Staff and P & Z Commission on all cases required to be heard by them, including major, minor and condominium subdivision final plats, annexations and requests for amendments to this Ordinance, so Council can hear and make determinations upon same in the manner prescribed by the procedures established by this and other City ordinances and City Code.
- B. Receive and hear all written requests for appeals by any person(s) aggrieved with the P & Z Commission's decision concerning and related to the administration and enforcement of this Ordinance.
- C. Instruct the City Planner, from time to time, to make and initiate studies, draft reports, create strategic and/or master plans concerning issues arising from this ordinance and from any and all other planning and zoning practices.

**ARTICLE 3: PROCEDURES, AMENDMENTS & CHANGES**

**Section 1. Procedures - Generally *Applications for requested amendments to this Ordinance, annexations, zone changes, special uses, plats and variances shall be made and reviewed according to the following:***

- A. Requested Amendments to this ordinance, annexations, zone changes, special uses, plats and variances may be initiated and applied for by City Council, the Planning & Zoning Commission and/or staff or any person owning property in the City limits.
- B. Applicants shall first confer with the P & Z Staff, which shall initially review the proposed request and provide the approved application forms and methods prescribed by this Ordinance for making application.
- C. The applicant shall complete and submit the approved application forms, with help from the P & Z Staff as required, along with the required application and processing fee by the required deadline which is the first Monday of each month.
- D. The P & Z Staff shall schedule a plan review for the application with all departments and external entities affected by, or having authority over anything regarding the application. Plan reviews shall be concluded within 10 business days after application deadline to allow time to prepare the case for advertising prior to the P & Z Commission meeting for that month.
- E. The P & Z Staff are required to advertise all required cases a minimum of fourteen (14) calendar days prior to the date of the P & Z Commission meeting for that month.

F. The P & Z Staff are required to deliver all cases, the meeting agenda and minutes from the previous P & Z Commission meeting to all commissioners at least 48 hours in advance of the P & Z Commission meeting date and time.

## **Section 2. Procedures - Public Hearings**

A. All P & Z Commission meetings serve as Public Hearings, where the cases are heard publicly and where determinations are made on those cases by the P & Z Commission. All cases heard by the P & Z Commission shall only become effective after a public hearing has been held in which all interested parties and/or citizens have had an opportunity to be heard.

B. Since all P & Z Commission meetings constitute Public Hearings, notice of the time and place of all P & Z Commission meetings (Public Hearings), and all cases to be heard at that hearing, shall be published by the P & Z Staff a minimum of fourteen (14) days prior to the date of the hearing in a newspaper with general circulation within the City limits.

C. For Major and Minor Subdivisions, Annexations, Zone Changes, Special Use Permits and Conditional Use Permits, notice of public hearing shall be mailed, to be received a minimum of one week prior to the public hearing, via certified mail - return receipt requested, by the applicant, to the property owners as shown by the records of the County Assessor, of lots or land within three hundred (300) feet of the area under consideration, excluding public rights-of-way. The applicant shall place one (1) sign, as approved by the P & Z Staff, on the subject property, clearly visible from the most traveled street or highway abutting said property, that shall be easily readable and clearly legible by all vehicle operators on that street or highway.

## **Section 3. Procedures - Protests to Proposed Zoning Cases**

A. Any person(s) taking exception to a proposed zoning case may file a written protest with the City Clerk prior to the public hearing(s) for a zoning case, wherever the case is to be considered.

B. The written protest shall list the name(s), addresses and signatures of property owners supporting the protest; whether or not the protestor's property is within the 300 foot notification area, along with any reasons why the property owners take exception.

## **Section 4. Procedures - Voting Requirements**

A. Approval of a proposed zoning case heard by the P & Z Commission shall require a favorable vote from the majority of the commission members present at the meeting.

B. Written protests against a proposed zoning case from property owners within the 300 foot notification area whose sum of property area exceeds 20 percent of the total area within the 300 foot notification area will require a four-fifths vote (four of the five member Commission or a super-majority), to approve the proposed zoning case. If at least four commissioners are not present at the meeting to form the super-majority, the case shall be postponed until the next regularly scheduled meeting. If the zoning case is appealed to City Council, only a majority vote from City Council is required to approve or deny the case.

C. Decisions by the Commission on zoning cases heard by them shall be final and effective after 12:00 noon on the second business day following the day of the Commission meeting. This allows for any appeals to be submitted after the meeting.

D. An appeal of a Commission decision to the City Council shall stay the effective date of the decision until a decision on the appeal is made by the City Council at the next regularly scheduled City Council meeting.

E. A zoning case denied by the Commission and/or City Council cannot again be applied for within one year from the date of the final denial, unless the new request is determined to be substantially different from the original request submitted to the P & Z Staff. Substantially different means changes in scope, size, property usage, zoning, design, number of buildings, etc.

## **Section 5. Procedures - Appeals**

A. **Generally.** Any person(s) aggrieved with a decision of the P & Z Commission, or by a determination made by City staff in the enforcement of this ordinance may appeal the decision or determination in the following manner.

### **B. Appeal of a City Staff Decision or Determination.**

1. Any person(s) aggrieved with a determination made by City staff in the enforcement of this Ordinance may appeal the decision to the P & Z Commission.

2. Any person(s) must file a written notice of appeal with the City Clerk's Office within thirty (30) calendar days following the determination made by City staff.

3. The notice of appeal shall concisely explain why the appeal is being made.
4. The appeal shall be heard by the P & Z Commission at its next regularly scheduled meeting
5. In deciding on the appeal, the P & Z Commission shall consider the appellant's written appeal and the determination as it was presented to the aggrieved person(s).
6. A decision to deny/approve the appeal shall require a majority vote by the P & Z Commission.
7. Any person(s) may appeal the decision of the P & Z Commission to the City Council through subsection C below.

**C. Appeal of a P & Z Commission Decision.**

1. City staff or any person(s) must file a written notice of appeal with the City Clerk's office prior to 12:00 noon on the second business day following the decision.
2. Prior to 5:00 p.m. on the second business day following the date of the decision, copies of the appeal shall be mailed by the appellant to all persons supporting the decision. Notice to City shall be filed at City Clerk's office.
3. The notice of appeal shall concisely explain why the appeal is being made.
4. The appeal shall be heard by City Council at the next regularly scheduled meeting.
5. In deciding on the appeal, City Council shall consider the appellant's written appeal and the case, exactly as it was presented to the P & Z Commission, without modifications.
6. Appeal decisions made by the City Council shall only be required to be made by majority vote of City Council.
7. The City Council may deny the appeal, reverse the decision of the Commission or make such modifications upon the appeal as it deems necessary to protect the public interest and not vote solely in the interest of the appellant.

**D. Appeal of a Decision by the City Council.** Any person(s) aggrieved with the decision of the City Council may present the decision to a court of competent jurisdiction for review within the time and in the manner required by state law.

**Section 6. Amendments to this Ordinance**

**A.** Any person(s) can make application for an Amendment to this Ordinance which must state the section of the ordinance proposed for amendment, the proposed substitute wording, the reasons for requesting the amendment, and any other information which the P & Z Staff feels that the P & Z Commission and City Council may require to make a proper decision on the matter. Graphics and/or other visual aids may also be submitted if desired.

**B.** No amendment to this Ordinance can be adopted until a public hearing has been held by the P & Z Commission and City Council in accordance with this ordinance.

**C.** The P & Z Commission and City Council shall decide whether or not to adopt a proposed amendment to this Ordinance. In its deliberations, both bodies shall consider all oral and written statements from the applicant, the public, City staff, and its own members. Neither body shall approve the amendment unless it finds the proposed amendment is in the public interest and is not solely in the interest of the applicant.

**D.** City Council may approve, deny or table the proposed amendment for not more than one regularly scheduled City Council meeting or for a period of time specified at the public hearing. If approved, the P & Z Staff shall take action to revise this Ordinance according to the steps required for approval of an Ordinance as outlined in the City Codes.

**Section 7. Annexation of Territory**

**A.** Land proposed to be annexed into the City territory must be contiguous with existing City boundaries. The City Planner and City Council can make a request to annex land into the City Territory for the benefit of the municipality. An application for an annexation-by-petition shall be accompanied by a plat from a registered Land Surveyor in the State showing the boundaries of land to be annexed, a legal description of the property to be annexed, a petition from land owners in the area to be annexed showing 100% support and the additional information required on the City of Buffalo annexation application form.

**B.** No annexations can be adopted until a public hearing has been held by the P & Z Commission and City Council and the required referendum period has expired, in accordance with this ordinance and State Statutes.

**C.** The P & Z Commission and City Council shall decide whether or not to annex the proposed property into City territory. In its deliberations, both bodies shall consider all statements from the applicant, public, staff, and its own members. Neither body shall approve the annexation unless it finds the annexation to be in the public interest and not solely in the applicant's interest.

**D.** Any territorial additions to the incorporated area of the City of Buffalo resulting from annexation shall be classified and regulated as an R-1 Low density Residential District. All uses in existence prior to being annexed and incorporated into the City which are not permitted in the R-1 District shall be deemed as legal non-conforming uses, thereby limiting the extent of the property's use until the property is rezoned into conformance with this ordinance, after incorporation into the City limits.

### **Section 8. Special Uses**

**A.** Within any zoning district the use of land and buildings and their location on the land are substantially uniform; however, special uses exist which, because of their unique character and special and unusual impact on adjacent properties, cannot be properly classified into any zoning district without consideration of the impact of those uses upon adjacent properties, the public and the need for the particular use. Special uses are usually operated by public or private agencies to benefit the public at large.

**B.** The applicant for a special use shall be the property owner or agent. The application shall include the following information:

1. The legal and common description of the property to be considered for a special use.
2. The property's present zoning classification.
3. A site plan drawn to scale showing the subject property and all adjacent properties.
4. The location, dimensions and square footage of all structures, existing and proposed.
5. The location of all existing/proposed curb cuts, parking, loading areas, sidewalks, landscaping, screening, open spaces, signage, lighting, and other related items.
6. The special use requested, the reasons for it and any additional information to aid the P & Z Commission.

**C.** Special uses cannot be approved until a public hearing has been held by the P & Z Commission.

**D.** The Commission shall decide whether or not to approve a request for a special use. In its deliberations, the Commission shall consider the impact of the special use upon the public health, safety, and welfare of the community; the existing and anticipated vehicular/pedestrian traffic flows; parking conditions; setbacks, and height; landscaping and screening; open spaces; signage; lighting; and other items. The P & Z Commission shall not approve a special use unless it finds it conforms to the City's Land Use Plan, is in the public interest and is not solely in the interest of the applicant.

**E.** Limitations, Amendments, and Revisions. The Commission may approve, deny or table a special use request for not more than one regularly scheduled meeting or for a period of time specified at the public hearing. The Commission may stipulate conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special use as deemed necessary to protect the value, utilization, and operation of adjacent properties, and to insure compliance with the requirements of this and other ordinances. If approved, the City Planner shall revise the official zoning map.

### **Section 9. Zone Changes**

**A.** The P & Z Commission may change the zoning classification on parcels of land within the City limits. These changes shall be for the purpose of meeting the land use needs of the residents of the City in conformance with the City's Land Use Plan.

**B.** Applicants for a zone change shall be the property owner or agent. The application shall include the following information:

1. The legal and common description of the property to be rezoned.
2. The property's present and proposed zoning classification.
3. The recommendation for use of the property by the City's Land Use Plan.
4. The reasons for requesting the rezoning.
5. Other information the P & Z Commission may need to make a decision.

**C.** Zone changes are adopted after a public hearing has been held by the P & Z Commission in accordance with this ordinance.

**D.** The P & Z Commission shall decide whether or not to approve a request for a zone change. In its deliberations, the Commission shall not approve a zone change unless it finds it conforms to the City's Land Use Plan, is in the public interest and is not solely in the interest of the applicant.

E. The P & Z Commission may approve, deny or table a request for a zone change for not more than one regularly scheduled meeting or for a period of time specified at the public hearing. The Commission may approve an amendment to the original request for a zone change by changing the zone change request to a more restrictive zoning classification than requested. The R-1 District is the most restrictive classification and the I-2 District is the least restrictive. Once the zone change is approved, the City Planner shall revise the official zoning map. **Disputes about the Official Zoning Map shall be heard by the P & Z Commission for a final determination. In all cases, the Zoning Ordinance shall govern over the Official Zoning Map.**

### **Section 10. Plat - Preliminary/Final/Replat/Summary**

A. All property proposed to be subdivided or which has lots, public rights-of-way or easements to be added to, or vacated from an existing subdivision, must be approved as follows:

1. Lot Line/Boundary Adjustments, Replats and Summary Plats require P & Z Staff approval.
2. Preliminary Plat (Recommendations) and Lot Splits require P & Z Commission approval.
3. Preliminary Plats and Final Plats require P & Z Commission and City Council approval.

B. Any property owner can make application for a plat, which must include the plat, the legal description and all other information required by the application. The plat must be certified by a State registered Land Surveyor. The plat must show all property boundaries of lots, blocks or parcels, public rights-of-way and easements, and any other information as required by the City of Buffalo Subdivision Ordinance, Development Review Committee, Planning Staff and the application.

C. No Boundary Adjustment or Summary Plat can be adopted until approved by the P & Z Staff and recorded by Johnson County. No Preliminary Plat or Lot Split can be adopted until approved by the P & Z Commission and recorded. No Minor or Major Final Plat or Re-Plat can be adopted until approved by the P & Z Commission and City Council and it is recorded with Johnson County.

D. The P & Z Commission and City Council shall decide whether or not to approve the proposed plat. In its deliberations, both bodies shall consider all statements from the applicant, the public, City staff, and its own members. Neither body shall approve the proposed plat unless it finds it to be in the public interest and not solely in the interest of the applicant.

E. Preliminary Plats, Final Plats and Zone Changes can be approved, in that order, by the P & Z Commission during the same meeting; however, the Final Plats must be approved by City Council through an Ordinance and recorded with Johnson County before the Final Plat and Zone Change can be adopted and incorporated into the land.

### **Section 11. Variances**

A. The P & Z Commission may approve a variance to the zoning requirements for a property, if the reason for the requested variance is due to the property being of exceptional narrowness, shallowness, shape or having topographical conditions or other extraordinary conditions which prevent the property owner from being able to comply with the zoning requirements and, if the strict application of this ordinance would result in a peculiar, exceptional or undue hardship, as opposed to a mere inconvenience upon the property owner.

B. The applicant for a variance shall be the property owner or agent. The application shall include the following information:

1. The legal and common description of the property to be considered for a variance
2. The properties present zoning classification.
3. A site plan drawn to scale showing the subject property and all adjacent properties.
4. The location, dimensions and square footage of all structures, existing and proposed.
5. The variance requested and existing hardships that caused the variance request.
6. Other information the P & Z Commission may need to make a decision.

C. No variance can be approved until a public hearing has been held by the P & Z Commission.

D. The P & Z Commission shall decide whether or not to approve a variance request. In its deliberations, the P & Z Commission shall consider all oral and written statements from the applicant, the public, the City staff, and its own members. The P & Z Commission shall also consider the effect of the proposed variance upon the public health, safety, and welfare of the community, traffic and parking conditions, open space areas, danger of fire, and upon the values of property in the surrounding area. The Commission shall not approve a variance unless it is satisfied that the request will alleviate some unusual hardship, is consistent with the general intent of this Ordinance, that it conforms to the City's Land Use Plan, and that it is in the public interest and is not solely in the interest of the applicant.

E. Limitations, Amendments, and Revisions. The P & Z Commission may approve, deny or table a variance request for not more than one regularly scheduled Commission meeting or for a period of time specified at the public hearing. The Commission may stipulate conditions and restrictions upon the property benefited by the variance as may be necessary to comply with the standards set forth in this ordinance, to reduce or minimize the adverse effect the variance may have upon adjacent properties, and to ensure consistency with the general intent of the ordinance.

## **Section 12. Development Review Committee - Site Plan & Plan Reviews**

A. **Generally.** Plan reviews are required for all commercial developments to promote attractive, well-planned and stable urban conditions. Plan reviews ensure compatible interaction of the development with surrounding conditions and ensures the developments conformance with regulations, provisions, and general intent of this and other ordinances and Building Codes.

B. **Site Plan Requirements.** Plan reviews of all proposed multiple-family dwellings, mobile home parks, professional offices, commercial, industrial, and other non-residential developments shall be required and submitted as part of the building permit process. Contact the Planning and Zoning Department for the requirements needed to complete a Site Plan or Plan Review.

C. **Development Review Committee.** The Development Review Committee (DRC) is comprised of members from City Staff and any outside agencies having jurisdiction or control over any rights-of-way or properties abutting and/or adjacent to property being reviewed for development or change. The City Planner will call the DRC to meetings as required and shall notify the applicant in writing within three (3) business days of the DRC meeting of all comments or recommendations from the DRC.

D. **Review and Findings by the Development Review Committee.** The DRC will review preliminary site plans, preliminary construction plans and plans for a Foundation Permit or a Building Permit as needed for each project. One full-size hard copy set of plans and one electronic version of the plans, plat or project shall be submitted to the Planning Department and a Building Permit application shall be filled out in advance, if required. The Planning Department will coordinate, schedule and invite all departments and outside agencies as needed for a plan review. The DRC shall review the plans and document all comments, recommendations and required changes and notify applicant of same within three (3) business days of the DRC meeting.

E. **Limitations, Alternatives, and Revisions.** The DRC shall complete the Plat, site plan or plan review within ten business days from the date of submission. If approved and required, City Staff will issue a building permit allowing construction to begin, after the General Contractor has been identified.

## **Section 13. Certificate of Occupancy (C-of-O)**

A. **Generally.** A C-of-O shall be required before the owner can occupy a newly erected building, an existing building that has been remodeled or for any change in use of an existing building. No building shall be occupied until it has been determined by City Staff that the building, its premises, and its use conform to the regulations of this and other ordinances and Building Codes.

B. **Certificate of Occupancy Application.** A C-of-O must be approved by the Building Department before occupying new or structurally altered buildings.

C. **Issuance of a Certificate of Occupancy.** A C-of-O is issued by the Building Inspector (BI) within 10 business days after completion of construction and inspection. The BI shall not issue a C-of-O until all City Staff determine the building and its use conform with the regulations of this and other ordinances. The BI may issue a sixty (60) day, temporary C-of-O (T-C-O) to allow for completion of punch-list items and partial occupancy. The BI may impose contingencies on either a C-of-O or T-C-O.

## **Section 14. Removal of Signs, Renew./Altern. Energy Systems, Cell Towers or Other Items or Structures**

A. The City may require the removal of such items as listed above when: such items with a permit have been abandoned for a period exceeding 90 consecutive days or a total of 180 days, shall be removed within 90 days; the permitted items fall into such disrepair that it creates a health or safety hazard as determined pursuant to a review by a Wyoming licensed engineer; an item has been located, constructed or modified without a permit, or in a manner inconsistent with the approved permit requirements; a certificate holder has failed to comply with the liability insurance requirements; and, such item is not repaired within 60 days, or longer as necessary upon the permit holder demonstrating that despite good faith efforts, such



disrepair could not be responsibly cured within the time; and, the Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by the required Permit, or other authorization.

**B.** If the City makes a determination as noted in (A) above, then the City shall notify the Permit holder within 48 hours that said items are to be removed, the City may approve an interim temporary use agreement/permit, to enable the sale of the item. After receiving notice of decision, the permit holder shall have 90 calendar days to cure the violation. The City shall extend such cure period as needed upon the Permit holder demonstrating that despite good faith efforts, such default cannot be reasonably cured.

**C.** If the permit holder cannot cure the violation within the cure period, the permit holder shall dismantle and remove such item, and any associated structures, from the site and restore the site to as close to its original condition as possible, reasonable wear and tear excepted, within 90 days of the expiration of the cure period.

**D.** If item is not removed or substantial progress has not been made to remove it within 90 days of the permit holder receiving notice, then City may order representatives of the City to remove the item at the expense of the owner or Permit holder.

**E.** If the City removes, or causes to be removed, the item, and the owner does not claim and remove it from the site to a lawful location within 120 days, then the City may take steps to declare the item abandoned, and sell it and its components.

**F.** Notwithstanding anything in this Section to the contrary, the City may approve a temporary use permit/agreement for the item for no more than 90 days, during which time a suitable plan for removal, conversion or re-location of the affected item shall be developed by the holder of the Permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of the Permit and the City. If such a plan is not developed, approved, and executed within the 90 day time period, then the City may take possession of and dispose of the affected item in the manner provided in this Section.

**G.** If City determines item is a hazard, creates an emergency situation or adversely affects public safety, it may remove or cause to be removed the item after 3 days written notice to the Permit or Certificate of Compliance holder or the holder. Written notice, pursuant to Section 3 above, shall be deemed sufficient for the purposes of the ordinance.

## **ARTICLE 4: DEFINITIONS**

**Section 1. Rules of Interpretation** *Language set forth in this Ordinance shall be interpreted as follows:* Words used in the present tense shall include the past and future tenses; A singular number shall include the plural and the plural the singular; The words "shall" and "must" are mandatory and not discretionary; The word "may" is permissive; The masculine gender shall include the feminine and neuter genders; The word "lot" shall include the words "piece", "parcel", "block" and "tract"; The phrase "used for" shall also mean "designed for", "intended for", "maintained for", and "occupied for"; The word "building" shall include the word "structure"; Any words not defined herein shall be as defined by Webster's Dictionary.

**Section 2. Definitions** *For the purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall be as meant in this section.*

**Abut, abutting.** To have a common property line or zoning district line.

**Accessory Facility or Structure.** Secondary structures located on the same property as the Principle Structure, Renewable/Alternative Energy System or WTF Facility, but not limited to, utility or transmission equipment storage sheds or cabinets.

**Adjacent.** Touching, abutting or contiguous.

**Administrator.** The City Planner for the City of Buffalo.

**Administrative Approval.** Approval received by the Administrator.

**Agent/Representative.** Anyone appointed by the property owner to represent them on matters regarding their property.

**Agri-business.** A business directly supportive of an agricultural use as defined herein.

**Agriculture.** Land and/or structures whose principal use includes the growing of farm crops, truck garden crops, animal/poultry husbandry, dairying, floriculture, horticulture, pasturage; and accessory uses customarily incidental to agricultural activities.

**Airport, heliport.** Any premises intended for the purpose of landing and take-off of aircraft.

**Alley.** A secondary means of vehicular right-of-way affording access to neighboring properties.

**Alteration.** Any change in size, shape, character, occupancy or use of a building or structure.

**Amusement establishment.** A building offering varieties of recreational facilities like pool halls, miniature golf, driving ranges, go-cart tracks, amusement parks, skating rinks, and game rooms.

**Animal hospital, clinic.** A building used for the care and treatment of animals.

**Applicant.** The person(s) responsible for the filing of the application for a Building Permit, Zoning Case, Renewable or Alternative Energy System or WTF System permit.

**Application.** All required documents submitted by an applicant to receive a permit, ruling or zoning determination.

**Antenna.** Means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS), microwave Telecommunications and services not licensed by the FCC, but not expressly exempt from the City's citing, building and permitting authority.

**Auditorium.** A building intended to gather people to hear a performance or other presentations.

**Automobile/motor vehicle sales.** An area used to display/sell automobiles or motor vehicles.

**Automobile laundry/Car Wash.** A building where automobiles or motor vehicles are washed.

**Automobile service station.** A building or portion thereof where gasoline, diesel fuel and other automobile fuels, oils or chemicals are offered for sale and where automotive repairs may be offered.

**Block.** A tract of land bounded by streets, alleys, railroads, or river channels.

**Boarding or lodging home.** A building for accommodating persons, not members of the keeper's family and not a hotel/motel, where lodging and meals are provided for definite periods.

**Buildable area.** The area remaining on a lot after the minimum yard setbacks have been met.

**Building/Structure.** Any building constructed for the support, shelter, or enclosure of persons, animals, chattels or moveable property of any kind, and which is permanently affixed to the land.

**Building, accessory.** A subordinate building which serves and is on the same lot as a principal building, which is subordinate in area, extent, and/or purpose to the principal building and contributes to the comfort, convenience, and/or necessity of the occupants of the principal building being served.

**Building, conforming.** A structure which complies with this Ordinance or any amendment thereto and is intended for a use permitted in the zoning district where it is located.

**Building, non-conforming.** A structure which doesn't comply with this Ordinance or any amendment thereto and is intended for a use not permitted in the zoning district where it is located.

**Building, principal.** The main building where the principal use of the lot is conducted.

**Building, temporary.** Any building not permanently affixed in place.

**Business.** Any money-making enterprise where goods are sold or services are rendered.

**Campground.** Includes, but is not limited to tourist camps, travel trailer camps or parks, recreation camps, family campgrounds, camping resorts, camping communities or any area on which three or more campsites occupy the area for recreational uses only.

**Camping Unit.** Tent, tent-trailer, travel trailer, camping trailer, pickup camper, motor home, recreational vehicle or any other unit used as temporary living quarters for recreational purposes.

**Carport.** A building used for the parking of motor vehicles with few if any enclosed walls.

**Certificate of Occupancy/Compliance.** The certificate issued by the Administrator/Building Inspector after final inspection.

**Certified or Certification.** Documents bearing the signature and seal of a professional Engineer or Architect licensed in the State of Wyoming.

**City Council or Council.** The City of Buffalo governing body.

**City Limits/City Boundaries.** The legal jurisdictional boundaries which encompass the limits of the City of Buffalo.

**Club or lodge.** A building which restricts entry to anyone other than members and their guests.

**Co-location.** A structure to support a wireless services antennae without increasing height or adding a new carrier/provider.

**Commission.** The City of Buffalo P & Z Commission.

**Committee.** The City of Buffalo Development Review Committee.

**Completed Application.** Means an Application containing all of the required information

**Comprehensive Plan/City Land Use Plan.** The Comprehensive Master Plan approved and adopted by the City.

**Contiguous:** Sharing a boundary or where two or more lots are touching at any one single point of contact.

**Contingency:** A precondition agreed upon by all parties which must be fulfilled prior to acceptance or final approval.

**Day care center.** A facility where services and supervision are provided for more than six children at a time.

**Day care home.** A residence where services and supervision are provided for no more than six children at a time. The resident's relatives under age six count towards the number permitted.

**Duplex.** A two family attached dwelling on a single lot held under one ownership.

**Dwelling.** A building or portion thereof used for residential purposes. Not including hotels, motels, mobile homes, travel trailers, lodging, boarding, group care or nursing homes.

**Dwelling, attached.** A dwelling permanently attached to another dwelling on the same lot.

**Dwelling, detached.** A single dwelling on a single lot which is surrounded by open space.

**Dwelling, multi-family.** A building housing three (3) or more dwelling units on the same lot.

**Dwelling, single family detached.** Two detached dwelling units on the same lot for one family.

**Dwelling, two family attached.** Two attached dwelling units on the same lot for one family.

**Dwelling unit.** Rooms used as living quarters for a family with the amenities/facilities of a home.

**Electronic copy.** As opposed to a hard paper copy, this is a copy of a document, plan, plat or form which can be transmitted electronically via the internet in a format readily usable by the City staff such as: Microsoft Office WORD or PDF formatting.

**Exterior Lighting.** Exterior lighting shall be provided and shielded downward to prevent direct illumination of sleeping areas or any adjacent property of a more restrictive zoning district.

**F.A.A.** The Federal Aviation Administration or its authorized successor agency.

**Facility.** A building, structure or device whose sum of all parts provides a functional use.

**Family.** One or more persons related to each other, or a group of persons not related, living together in a dwelling unit. A family may also include boarders, roomers or permanent guests.

**Farm.** Any tract of land where income is derived from activities defined in the term "agriculture".

**F.C.C.** The Federal Communications Commission or its authorized successor agency.

**Fence.** A structure erected on a property, solid or otherwise, used to keep things in or out.

**Floor area interior, gross.** The square footage of a structure measured from the exterior face of walls.

**Floor area interior, net.** The interior square footage of a structure measured from the interior face of walls or for figuring parking, the area "not" considered off-limits to customers or patrons on the inside of a business.

**Floor Area, Net:** For Parking, the floor area of a structure which is readily accessible to patrons or visitors to a business.

**Garage, public.** A structure used for servicing, leasing, selling, or storage of automobiles.

**Height.** The distance from the pre-existing grade to the highest point on a structure.

**Home Occupation.** A home business operated in accordance with Article 26.

**Home Space.** Specific area set aside for occupancy in an MHC which is offered for rent or lease.

**Hotel, Motel.** A building containing lodging accommodations for paying temporary guests.

**Independent Camping Unit.** Unit including operational water-flush toilet, sink and shower.

**Junkyard.** A building, lot or portion/combination thereof used for the storage and possible resale of anything discarded by others and deemed valuable to the property "Junkyard" owner.

**Kennel.** A building, lot or portion/combination thereof which houses more than three domestic animals which are boarded, bred or cared for in return for remuneration or for the purpose of sale.

**Lot.** A parcel of land adequate in size for occupancy by a permitted use which is part of a subdivision or described by metes and bounds with a legal description recorded with the County.

**Lot area.** The square footage of a lot.

**Lot, corner.** A lot where two intersecting sides abut public or private streets.

**Lot, depth.** The average distance between the front and rear property lines.

**Lot, double frontage.** A lot having frontage on two parallel streets.

**Lot, interior.** A lot other than a corner or double frontage lot.

**Lot lines.** The property boundary lines of a lot.

**Lot line, front.** The property line of a lot abutting a street, except on a corner lot, where the front lot line shall be the lot line abutting a street with the shortest dimension.

**Lot line, rear.** The lot line which is approximately parallel to the front lot line. If the rear lot line is less than ten (10) feet in length or if the two side lot lines form a point, then the rear lot line shall be a line ten (10) feet in length within the lot, parallel to the front lot line.

**Lot line, side.** One of two lot lines which is not a front or rear lot line.

**Lot width.** The average distance between the two side property lines.

**Manufactured/Mobile Home Community.** 2 or more manufactured/mobile homes located on a tract of land held under single ownership which provide permanent residential spaces for a fee.

**Manufactured Home/Multi-sectional Manufactured Home.** Modular or pre-manufactured homes constructed in a factory and built to International Building Code standards, designed to be permanently affixed to real property, or any moveable housing structure over 12' x 40' which is used for non-residential purposes, or any housing structure over 32' x 8' constructed to be towed and installed with or without permanent foundation Not for recreational usage.

**Material or Material Change.** Means a significant change to a facility which may require a determination be made on the basis of the anticipated actual or potential impact of the change. Changes that affect the physical appearance, facility's structural loading, NIER, or safety of the facility would be material changes. The Administrator shall determine, based on an individual case basis, and applying this definition whether or not changes are material.

**Mobile home.** A dwelling unit built on a chassis, not less than eight (8) feet wide and forty (40) feet long, designed to be used as a dwelling, with or without a permanent foundation.

**Mobile home park.** A tract of rentable lots or spaces designated for long term residential use and intended for rent or lease exclusively for mobile homes.

**Mobile home subdivision.** A subdivision of rentable/saleable lots designated for long term residential use for mobile homes.

**Modification or Modify.** Means the addition or change of any of the physical and visually discernable components or aspects of a building, structure or wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility needs, changing the color or materials of any visually discernable components, vehicular access, and/or parking. Adding a new wireless service is a modification. A modification shall not include the replacement of any components of a wireless facility where replacement is reasonably similar to the component being replaced or for the normal repair and maintenance of a WTF.

**Motor freight terminal.** A structure where freight is shipped and received by truck or rail.

**Multi-family residence.** A multiple family dwelling unit.

**NIER.** Means Non-Ionizing Electromagnetic Radiation.

**Outside storage.** The outside collection of materials that is not covered by a structure.

**Oversized Vehicle.** A vehicle, trailer, or boat exceeding 22 feet in length, eight feet in width or 10 feet in height.

**Owner.** The property owner and/or his or her designated agent.

**Permit.** The official City document enabling the construction or installation of a structure.

**Permanent.** As opposed to temporary, something affixed in place, lasting for a very long time, without significant change.

**Person.** Means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

**Personal Wireless Services Facility.** See Wireless Telecommunications Facilities or WTF.

**Personal Wireless Services ("PWS") or Personal Communications Service.** As defined in the 1996 Telecommunications Act.

**Professional office.** The place of business for a professional or group of various professionals.

**Ramada.** A covered porch or trellis for picnic tables or other similar uses protected from overhead weather conditions.

**Recreation building or community center.** A building with land offering recreational facilities.

**Recycling center.** A building with land which is used to process and recycle various materials for reuse.

**Renewable/Alternative Energy Site (RAES).** The site, property, location where the RAES will be placed or installed.

**Renewable/Alternative Energy Systems.** Any and all equipment used in the conversion, collection, storage and/or transfer of renewable/alternative energy into a usable form of energy.

**Repairs and Maintenance.** The repair, maintenance or replacement of components or materials necessary to make a system, building or structure function properly, where the replacement is similar to the existing component.

**Seating capacity.** The seating capacity of an area indicated by the adopted International Building Code (IBC).

**Single family residence.** A single family detached dwelling.

**Solar Energy System.** All components needed to convert Sun energy into useable energy.

**State.** The State of Wyoming.

**Stealth or Stealth Technology.** Anything used to minimize the adverse impact or effects or improve the aesthetics of the area of the requested location.

**Street; arterial.** A street designed to carry and move large volumes of traffic, with minimal stopping, ingress and egress as designated on the Functional Street Classification Map in the City's Comprehensive Master Plan.

**Street; collector.** A street designed to carry and move moderate volumes of traffic as designated on the Functional Street Classification Map in the City's Comprehensive Master Plan. Collector Streets typically feed into larger arterial streets.

**Street; local.** A street designed to carry low volumes of traffic as designated on the Functional Street Classification Map in the City's Comprehensive Plan. Local Streets typically feed into larger collector streets and occasionally into arterial streets.

**Street; road or highway.** A permanent public or private right-of-way for vehicular travel and use.

**Structure.** A building, dwelling unit, tower, antennae, stand-alone system or facility that is constructed or installed.

**Summary Plat.** The consolidation of two or more lots into one lot of record, under single ownership.

**System.** The sum of all components used to make up a complete system.

**Telecommunications Site.** Means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

**Telecommunications Permit.** Means the official permit issued by the City allowing Applicant to construct and use WTF.

**Telecommunications Structure.** Means a structure used in the provision of services described in the definition of 'Wireless Telecommunication Facilities' or WTF.

**Temporary.** Means, temporary as opposed to permanent structures, vehicles and dwelling units.

**Tower.** (See also *Antenna* and *WTF*) A structure situated on a site intended for transmitting/receiving television, radio, telephone or dispatch communications.

**Travel trailer or recreational vehicle.** Any vehicle or portable structure, with or without mobile power, designed to be driven, drawn or placed on a vehicle for short term dwelling. Such units shall be eight (8) feet or less in width and less than forty (40) feet in length.

**Use.** The purpose or activity which a piece of property and/or a building are intended to be used.

**Use, accessory.** A subordinate use which is clearly and customarily incidental to the principal use of a building or premises and which is located on the same lot as the principal use or building.

**Use, conditional.** Any use which may be established in the particular zoning district in which it is allowed only upon meeting the conditions and limitations as prescribed by this Ordinance.

**Use, conforming.** The use of a building or premises which complies with all of the applicable use regulations of the zoning district in which said building, property or premises is located.

**Use, non-conforming.** The use of a building or premises which does not comply with all of the applicable use regulations of the zoning district in which said building, property or premises is located.

**Use, permitted.** The use of a building or premises which complies with all of the applicable use regulations of the zoning district in which said building, property or premises is located.

**Use, principal.** The primary use of a building or land as distinguished from an accessory use.

**Use, special.** Any use having unusual operational, physical, or other characteristics different from those of the predominant permitted uses in a zoning district, but which can complement or be compatible with the intended over-all development.

**Wind Energy System.** All components used to convert wind energy into useable energy.

**Wireless Telecommunications Facilities or WTF.** Include a "Telecommunications Site" and "Tower" and "Personal Wireless Facility" and means a structure or location intended to be used to support Antennas or other wireless transmitting/receiving devices, including without limit structures of all types and kinds and that can employ camouflage technology.

**Yard.** An open space on the same lot as a principal building, which extends along a lot line and at right angles thereto to a depth or width specified in the minimum required yard regulations for the use and zoning district in which the lot is located.

**Yard, required front.** The setback at the front of a building where no structures can be built.

**Yard, required rear.** The setback at the rear of a building where no structures can be built.

**Yard, required side.** The setback on the sides of a building where no structures can be built.

**Zero lot line.** This means a building can be built right to the lot line without any setbacks.

## **ARTICLE 5: ESTABLISHMENT OF ZONING DISTRICTS**

**Section 1. Establishment of Zoning Districts** *In order to fulfill the purposes and provisions of this Ordinance, the area within the corporate limits of the City of Buffalo is divided into the following zoning districts:*

<b>Residential</b>	R - 1	Single-Family Residential
	R - 2	Medium-Density Residential
	R - 3	High-Density Residential
	R M S	Mobile Home Subdivision
	R M P	Mobile Home Park
<b>Commercial</b>	B - 1	Neighborhood "Light" Commercial
	B - 2	Community "Heavy" Commercial
	B - 3	Central Business District
<b>Industrial</b>	I - 1	Light Industrial District
	I - 2	Heavy Industrial District
<b>Mixed Use</b>	P U D	Planned Unit Development – Residential or Commercial

**Section 2. Official Zoning Map** *The location and boundaries of the zoning districts established by this Ordinance are set forth on the official zoning map hereby adopted by reference and declared to be an official part of this Ordinance.*

A. The official zoning map for the City is located in the Planning and Zoning Department, which is the final authority on the zoning status of all lands within the City limits.

B. Whenever changes are made to zoning district boundaries, they shall be made promptly on the official zoning map by the City Planner or Zoning Administrator and become a part thereof.

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- C. Changes to the zoning map can only be made by either the City Planner or Zoning Administrator. No other persons can make changes to the official zoning map.
- D. Should the official zoning map become worn, damaged, destroyed, lost, or difficult to interpret for any reason, the P & Z Commission may adopt a new official zoning map to replace the previous one. The newly adopted official zoning map may only correct drafting or other errors and omissions from the previous zoning map, but such corrections shall not amend or change existing zoning districts or boundaries.

**Section 3. Zoning District and Annexation Boundaries** *Whenever uncertainty exists with respect to boundaries of the various zoning districts or annexations as indicated on the official zoning map, the following rules shall apply:*

- A. Zoning district boundary lines are the centerline of streets, alleys, railroads, river channels, or easements or the boundary lines of sections, divisions of sections, tracts, blocks, lots, or lines that may extend through lots as otherwise indicated. Verify exact locations with the cases on file.
- B. Annexation boundary lines shall include all of the right-of-way of any abutting street(s).

**ARTICLE 6: “R-1” SINGLE-FAMILY RESIDENTIAL**

**Section 1. Purpose** This district is intended for low density single family detached dwellings and other uses which uphold and maintain the low density residential nature of the district.

**Section 2. Use Regulations**

**A. Permitted Uses in the R-1 district are as follows:**

1. Day care homes
2. Home occupations
  3. Publicly owned police/fire stations/parks or playgrounds and related buildings
  4. Temporary real estate office for use during the development of a residential subdivision
5. Single family detached dwellings
6. Temporary structure for use during construction of a permitted use.
7. Temporary sign not exceeding six sq. ft. in area for the lease or sale of a building.
8. Two temporary signs not exceeding thirty-two (32) sq. ft. in area for the sale of lots/buildings in the subdivision.
9. Permits must be obtained from the building inspector who determines their location so they will not be a traffic hazard. Permits are renewable annually but must be removed when the subdivision is completed.
10. Beehives, assisted living homes, group care homes.
11. Manufactured housing units applying to be placed in R-1 neighborhoods must have a pitched roof with eaves, must have been manufactured no more than 24 months prior to the date of application, must be placed on a permanent foundation, must have skirting installed within 30 days of placement on the permanent foundation. Portable steps/stairs may not be used for ingress/egress.

**B. Special Uses in the R-1 district are as follows:**

1. Cemeteries and mausoleums
2. Churches, convents, monasteries, parish houses, rectories, seminaries and other places of worship and those uses usually associated with them such as day care services
3. Community Association swimming pools and/or recreational facilities
4. Golf courses and related buildings
5. Parking lots as a principal use
6. Public utility/service/television/radio companies
7. Schools, public or private, elementary, secondary and colleges
8. Stadiums and arenas.

**ARTICLE 7: “R-2” MEDIUM DENSITY RESIDENTIAL**

**Section 1. Purpose** This district is intended for medium density residential uses provided through a variety of housing types and other non-residential uses that are compatible with the surrounding area and which uphold and maintain the medium density residential nature of the district.

## **Section 2. Use Regulations**

### **A. Permitted Uses in the R-2 district are as follows:**

1. Any use permitted in the R-1 District
2. Churches, convents, monasteries, parish houses, rectories, seminaries and other places of worship and those uses usually associated with them like day care services.
3. Two family attached dwellings (duplexes) per lot.
4. Multiple family dwellings meeting the medium density requirements of approximately 9 dwelling units per net acre for single story and approximately 18 dwelling units per net acre for two story dwellings. Multiple family dwellings in excess of two stories are not permitted in the R-2 district. The P & Z Staff, Building Inspector and Fire Marshall shall make the determination of whether or not to allow additional dwelling units per net acre based on life safety issues and how well the dwellings fit in with the area or neighborhood where the proposed dwelling units are built.
5. Beehives, assisted living homes, group care homes.

### **B. Special Uses in the R-2 district are as follows:**

1. Any special use in the R-1 District, except those permitted uses in the R-3 District.
2. Bed & Breakfast - Three (3) units maximum including the operators dwelling unit.
3. Boarding or lodging homes
4. Day care centers
5. Hospitals, sanitariums, and group care residences
6. Libraries
7. Museums and art galleries
8. Nursing and convalescent homes and retirement centers
9. Professional offices not exceeding 7,500 sq. ft. in gross floor area
10. Professional offices not exceeding 10,000 sq. ft. in gross floor area, where an additional 5% landscaping shall be provided and side yard setbacks on interior lot lines shall be no less than 10 feet.
11. Recreation buildings and community centers
12. Music, dance, business, commercial and trade schools
13. Multiple family dwellings for sale that meet the requirements in A-4 above.

## **ARTICLE 8: "R-3" HIGH DENSITY MULTI-FAMILY RESIDENTIAL**

**Section 1. Purpose** This district is intended for high density residential uses provided through a variety of housing types and other non-residential uses that are compatible with the surrounding area and which uphold and maintain the high density residential nature of the district.

## **Section 2. Use Regulations**

### **A. Permitted Uses in the R-3 district are as follows:**

1. Any permitted use or special use permitted in the R-2 District.
2. Multiple family dwellings meeting the high density requirements of approximately 16 dwelling units per net acre for single story and 32 dwelling units per net acre for two story dwellings. Multiple family dwellings in excess of two stories and which exceed the density requirements shall be approved by the P & Z Staff and Fire Marshall prior to the issuance of a Building Permit to ensure the life safety issues have been addressed and the development fits in with the area or neighborhood where they are to be built. These dwelling units can be for rent only.
3. Beehives, assisted living homes, group care homes.

### **B. Special Uses in the R-3 district are as follows:**

1. Any special use in the R-2 District.
2. Professional offices not exceeding 15,000 sq. ft. in gross floor area, where an additional 10% landscaping shall be provided, and side yard setbacks on interior lot lines shall be no less than ten (10) feet.
3. Multiple family dwelling units for sale that meet the requirements in A-2 above.

## **ARTICLE 9: "RMS" RESIDENTIAL MOBILE HOME SUBDIVISION.**

**Section 1. Purpose** This district shall be a minimum of two acres in size and it is intended to provide an alternative to conventional housing by permitting low to medium density mobile home development on privately owned or rented lots in subdivisions designed for such development.

## **Section 2. Use Regulations**

### **A. Permitted Uses in the RMS district are as follows:**

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1. Any use permitted in the R-1 district
2. Manufactured/Mobile homes on individual lots
3. Single family detached dwellings.
4. Beehives, assisted living homes, group care homes.

**B. Special Uses in the RMS district shall include any special use in the R-1 district.**

**Section 3. Area, Setback, and Height Requirements** In the RMS district, the following requirements shall apply:

1. Lot Area. Lot size shall not be less than 4,500 sq. ft..
2. Front Yard. The required front yard shall not be less than 20 feet.
3. Side Yard. The required side yard shall not be less than 5 feet.
4. Rear Yard. The required rear yard shall not be less than 15 feet.
5. Height. A building or structure shall not exceed 35 feet.

**Section 4. General Standards** Each mobile home located in this district shall be installed according to the requirements contained in the Wyoming Manufactured Housing Act and shall be skirted with a material of sufficient strength to withstand winds gusting up to 90 miles per hour and local weather cycles without noticeable deterioration. Each mobile home shall be anchored and have a minimum of four roof and frame tie-downs. All tie-downs, anchors, piers, footings structural stabilizers shall be in compliance with the most recent state codes for placing manufactured/mobile homes.

**ARTICLE 10: “MHC” MANUFACTURED/MOBILE HOME COMMUNITY or “RVP” RECREATIONAL VEHICLE PARKS**

**Section 1. Purpose** This district shall be a minimum of five acres in size and it is intended to provide an alternative to conventional housing by permitting high density manufactured/mobile home development in a park designed for such development and under single ownership or group of owners. *Recreational Vehicle Parks “RVP” shall meet the same requirements as that of an MHC, except as noted is bold italics and beginning with RVP in each of the following sections.*

**Section 2. Use Regulations** Permitted uses in the MHC include manufactured/mobile homes, self-contained travel trailers and those uses customarily associated with mobile home parks. **No Special Uses are permitted.**

**Section 3. Area, Setback, and Height Requirements**

**A. Park Area.** The MHC shall not be less than two acres in size and shall be designed to facilitate efficient utilization and management. *RVP shall be sized to accommodate efficient design and management with no minimum size requirement.*

**B. Setbacks.** Building setbacks from all property lines which are adjacent to public streets shall not be less than 25 feet and from all other property lines which form the perimeter of the mobile home park shall not be less than fifteen 15 feet.

**C. Height.** A building or structure shall not exceed 35 feet in height.

**D. Lot Area.** The minimum lot area for each mobile home shall be at least 4,000 square ft. *RVP lot area shall be a minimum of 1,250 sq. ft. per travel trailer lot.*

**E. Lot Width.** The minimum width of a lot for each mobile home shall be 30 feet. *RVP lot width shall be at least 25 feet.*

**F. Spacing.** The minimum side to side and end to end spacing between mobile homes and structures shall be 20 feet.

**Section 4. General Standards and Requirements** An MHC or RVP Development Plan shall be submitted to P & Z Staff in accordance with the following before a building permit can be issued:

**A. Development Plan.** The plan shall be drawn to scale on a 24"x 36" reproducible sheet. The following additional information shall also be shown:

1. Name of MHC or RVP, ownership, developer, scale, north arrow, date, and location map showing the location of the park in the City.
2. All corners of the development shall be tied by course and distance to established survey monuments, describing how the bearings were determined.
3. Tract and lot boundary lines, rights-of-way and easements with dimensions and bearings on each line, radius, length, semi-tangent, and central angle for each curve.
4. Rights-of-way width for each private street and paved width, location, dimensions and purpose of any easements, fully described with the development.



5. Identification of each trailer lot or space by number and/or letter.
6. Reference to adjoining recorded plats of land by name, date, book and page number.
7. Certification by a registered land surveyor verifying the Plan represents a survey made by him and all monuments exist and their location, size and materials are correct.
8. Show existing contours and proposed finish grade for the development and adjacent properties and any streets and drainage. Contour interval shall not exceed two feet.
9. The applicant shall provide the City of Buffalo four sets of the development Plan. After final approval the applicant shall furnish the City two sets for recording purposes.

**B. Site Conditions.** Conditions of soil, ground water, drainage and topography shall not create hazards to the property or occupants. Development of the site shall not create a public nuisance.

**C. Fencing, screening and landscaping.** The MHC or RVP shall place either a solid screen fence or wall made of brick, masonry, stone, or wood, no less than six feet in height; or an irrigated and maintained landscaped fence planted with a density equaling the opacity and height of a solid fence or wall; or any combination thereof at all perimeter lot lines of the park. Landscaping shall be provided in accordance with this ordinance.

**D. Access to the Site.** Direct vehicular access to the park shall be provided by means of an abutting collector or arterial street. Vehicular access shall not be provided through an alley.

**E. Design of Entrance and Exits.** Entrances and exits (E/E) shall be designed for safe and convenient movement of traffic into and out of the park, and to minimize marginal friction with movement of traffic on adjacent streets. A minimum of two access points shall be provided and all traffic into and out of the park shall be through them. No E/E shall require a turn at an acute angle for vehicles moving in the direction intended, and radii of curbs and pavement at intersections shall be a minimum of 25 feet to facilitate easy turning movements for vehicles. No object shall obscure the view of an approaching driver in the right lane. No E/E shall be located closer than 30 feet from street intersections, or 10 feet from the radius point, whichever is more.

**F. Internal Streets.** Streets shall be privately owned and maintained and provided in the park where necessary to allow safe, convenient access to all spaces and facilities used by occupants.

**G. Street Alignment and Gradient.** Street alignment and gradient shall be properly adapted to topography for safe movement of traffic anticipated and to control surface and ground water.

**H. Street Surfacing and Maintenance.** A sound all weather driving surface consisting of a minimum of a four inch base and 1-1/2 inches of asphalt shall be provided and maintained. It shall be kept free from mud, dust, or standing surface water.

**I. Street Widths.** Streets shall be wide enough to contain the anticipated parking and traffic load, pedestrian travel and shall be approved by the City's Engineer. Width at entrances shall permit free flow of traffic with no parking at or near access points.

**J. Parking Spaces.** One 9' x 18' off-street parking space per lot and one additional space for each four lots for guest parking, for two car tenants, for delivery and emergency service vehicles.

**K. Driveways.** Driveways shall be provided for access to service entrances of buildings, to delivery and collection points for refuse and recyclables. Driveways shall have a minimum full-width of eight feet or 10 feet where it is also used as a walkway. *RVP driveways shall have enough space for maneuvering trailers in and out of spaces. No public streets, sidewalks, or rights-of-way shall be used for this purpose. All maneuvering to be done on RVP property.*

**L. Pedestrian Circulation.** For MHC only, pedestrian walkways shall be designed and maintained for safe and convenient movement from all lots to principal destinations in the park and out of the park. Streets may be used as pedestrian ways except where concentration of either pedestrian or vehicular traffic appears likely to lead to congestion or safety hazards.

**M. Exterior Lighting.** Exterior lighting shall be provided and shielded downward to prevent direct illumination of sleeping areas or any adjacent property of a more restrictive zoning district.

**N. Type of Residential Occupancy.** For MHC only, no lot shall be rented for any use other than residential in a mobile home park. No mobile unit shall be admitted to any mobile home park unless it conforms to the standards set forth in this ordinance.

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**O. Tie-downs and Footings.** For MHC only, mobile homes shall be anchored and have a minimum of four roof and frame tie-downs. All tie-downs, anchors, piers, footings structural stabilizers shall be in compliance with the most recent state codes for placing manufactured/mobile homes.

**P. Management Offices, Common and Recreational areas.** The structure(s) containing the management office and other common facilities shall be conveniently located. Placing all facilities and services in a single building and location is acceptable if it serves all of the mobile home lots. All structures shall meet the requirements of the International Building Code. *RVP showers, toilets, laundries or other uses for park residents are permitted as long as the area including parking for these facilities does not exceed 10% of the total RVP area. Toilet and bath facilities shall be of permanent construction in accordance with local Building Codes.* No less than 5% of park area shall be devoted to recreational areas.

**Q. Cooking Shelters, Barbecue Pits and Fireplaces.** Shall be so located, constructed, maintained and used to minimize fire hazards and smoke nuisance both on and off the property. No open fire shall be permitted except in approved facilities. No open fire shall be left unattended and all open fires shall be extinguished before occupants of spaces retire or leave the area. No fuel or material shall be used or burned, which emits dense smoke or objectionable odors.

**R. Disposal of Wastewater, Sewage and Trash.** No self-contained or dependent unit shall dispose of wastewater, sewage or trash except in approved facilities provided by management.

**S. Sanitary Stations.** *RVP only, sufficient permanent facilities shall be provided for the sole purpose of disposing of waste from all holding tanks in a clean, efficient and convenient manner in accordance with local Building Codes.*

**T. Spaces for Occupancy.** *RVP only, spaces in travel trailer parks may only be used by travel trailers, equivalent facilities on or towed by vehicles, tents, or other short-term housing. Spaces shall be for short-term rental only, for a period not to exceed 14 calendar days. The wheels of a travel trailer shall not be removed except temporarily for repairs. Jacks or stabilizers may be placed under travel trailer to prevent movement while the trailer is parked and occupied.*

**Section 5. Location of Mobile Homes/Travel Trailers/Recreational/Oversize Vehicles Outside of Approved Subdivisions or Parks:** *These units shall not be parked, used for storage or as a dwelling on any public right-of-way or other public place or on any occupied or vacant property except in approved areas as provided in this Ordinance. In all cases; the unit shall comply with the regulations in the International Building Code for the fire zone where placed.*

**A.** Emergency or temporary stopping or parking is permitted on any public right-of-way for no longer than 72 hours, subject to any further prohibitions, regulations, or limitations imposed by other traffic and parking regulations and ordinances for that street, alley or highway.

**B.** No unit shall be parked or occupied on the premises of a lot having a principle structure except in a completely enclosed parking structure, in the side or rear yard, but not in the setback.

**C.** The travel trailer, recreational vehicle, oversized vehicle or boats shall not be used as a dwelling except as provided herein. Units designed for occupancy and parked as provided below, may be occupied for no more than 10 days per occupancy, with no more than 3 occupancies per year. Oversize vehicles shall not discharge any litter, sewage effluent, or other matter except into sanitary facilities designed to dispose of such materials.

1. The unit is parked as close to perpendicular as practical to the front curb.

2. The unit is at least 11 feet from the curb and is within the side and/or rear yard setback.

3. No part of the oversize vehicle extends over the public sidewalk.

4. Placement in the required front or side yard is permitted with a Conditional Use Permit (CUP). The applicant shall be the owner and submit application in accordance with the requirements for a Special Use as outlined in Article 3, Section 8. The external dimensions and manufacturers stated turning radius shall be included on the application

5. The unit shall not be permanently connected to sewer/water lines, or electricity. The unit may be temporarily connected to electricity for charging batteries and other purposes through an approved receptacle and connection.

6. The unit cannot be used for storage for anything not associated the units intended use.

**D.** One unit may be parked on a vacant lot in accordance with paragraph 'C' above and it is used as a temporary dwelling unit or office, with connections to utilities, for the construction of a dwelling unit or building for no more than 6 months.

**E.** Institutions which are publicly owned, operated and maintained may utilize one mobile home on the premises as a residence for a watchman or caretaker and his immediate family.

F. Oversized commercial trucks or trailers cannot be parked or stored in residential districts.

## **ARTICLE 11: “B-1” COMMUNITY LIGHT COMMERCIAL**

**Section 1. Purpose** This district is intended to provide for retail and personal service types of uses of a limited nature for the consumer population of the neighborhoods in which they are located and is not intended for those types of uses that will either attract the consumer population of the entire community, attract large volumes of traffic, or have an appearance and performance that may be detrimental to the neighborhoods in which they are located.

### **Section 2. Use Regulations**

#### **A. Permitted Uses in the B-1 district are as follows:**

1. Any use permitted in the R-3 Districts, except single family detached and two family attached dwellings.
2. Approved Accessory uses
3. Barber shops
4. Beauty shops
5. Bed & Breakfast (5 units max. includes owner)
6. Boarding or lodging homes
7. Day care centers
8. Drive-in banks and tellers
9. Drugstores/Food stores/markets
10. Convenience store 5,000 SF
11. Florists and greenhouses, retail
12. Laundries/dry cleaning
13. Libraries and other public facilities
14. Museums and art galleries
15. Nursing/convalescent/group care homes
16. Professional office 7,500 SF
17. Rec. bldgs./community centers
18. Music/dance/trade schools
19. Colleges/universities
20. Travel agencies
21. Restaurants/Food/Drink/Lounges/Liquor
22. Hotels and Motels
23. Any other use that meets the intent/purpose of this Article and is similar and comparable to those uses listed above.

#### **B. Special Uses in the B-1 district are as follows:**

1. Amusement establishments
2. Arenas and Stadiums
3. Automobile service stations
4. Hospitals and sanitariums
5. Public utility/service/television companies
6. Parking lots, as a principal use
7. Professional offices (15,000 S.F. Maximum with an additional 10% landscaping).
8. New residential uses in the district may be allowed through obtaining a special use permit approval from City Council. (R.O. 1380 § 10/2015)

## **ARTICLE 12: “B-2” COMMUNITY HEAVY COMMERCIAL**

**Section 1. Purpose** This district is intended to provide for a wide variety of retail, personal service, wholesale office, and other general service types of uses for the consumer population of the entire community and, because of their heavy traffic generating characteristics, ability to stay open 24/7 and potentially detrimental appearance and performance, are located on the periphery of residential areas along collector and arterial street facilities.

### **Section 2. Use Regulations**

#### **A. Permitted Uses in the B-2 district are as follows:**

1. Any use permitted in the B-1 District
2. Amusement establishments
3. Animal hospitals, clinics, kennels, and pounds
4. Athletic clubs
5. Auditoriums
6. Automobile service stations
7. Automobile accessory/sales/laundries
8. Banks/Financial institutions
9. Banquet halls
10. Bicycle stores, rental, and repair
11. Blueprinting/Photo-copying
12. Book, stationery, school supplies
13. Retail building material sales
14. Bldg contractor/office/storage
15. Businesses, public and private
16. Carpet and floor covering stores
17. Catering establishments
18. Commercial Retail/Service stores
19. Clubs/lodges but not gun clubs.
20. Convention/Exhibition Centers
21. Department stores
22. Electrical sales/storage
23. Employment agencies
24. Funeral parlors
25. Food/Grocery stores/bakeries/delicatessens
26. Golf courses
27. Hardware stores
28. Health centers
29. Libraries
30. Lumberyards
31. Mobile Home/Travel Trailer Sales
32. Newspaper Offices
33. Parking Lots/Garages/Decks
34. Post Offices
35. Printing/Publishing
36. Professional Offices
37. Self Storage Establishments
38. Public Utility/Service/Radio/TV/Cable
39. Sign Shop
40. Stadiums and Arenas

41. Theaters, Indoor

42. Warehouses as Accessory Use

43. Any other use meeting the intent and purpose of this Article and similar and comparable to those uses listed above.

**B. Special Uses in the B-2 district are as follows:**

- |  |                                      |
|--|--------------------------------------|
| 1. Any special use in the B-1 District | 2. Airports/heliports/landing fields |
| 3. Bottling works                      | 4. Bus stations and terminals        |
| 5. Gun clubs                           | 6. Outdoor theaters, drive-ins       |
| 7. Outside storage as a principal use  | 8. Parcel delivery/mail order        |
| 9. Penal/Correctional institutions     | 10. Travel trailer parks             |
| 11. Light welding and fabrication      |                                      |

**ARTICLE 13: “B-3” DOWNTOWN BUSINESS DISTRICT**

**Section 1. Purpose** The district boundaries generally include those lots fronting Main St., from Foote to Angus Streets along Main on the west side and from Foote to Bennett Streets on the east; also including properties from Fort Street on the north to Angus Street on the south and extending to Burritt as well as those properties between Benteen and Fetterman on both sides of Lobban Avenue and properties on the west side of Lobban between Bennett and Fetterman Street. The B-3 is intended to provide for retail, service, wholesale, office, art and other general service types of uses for the consumer population or the community in a centrally located and contained high density setting. (RO 1379 9/15)

**Section 2. Use Regulations**

A. Permitted Uses in the B-3 district shall include retail, wholesale, hospitality and service uses as well as craft breweries, artisan studios and art production. Manufacturing and industrial uses are not permitted.

B. Existing residential use of properties at the time of adoption of this section is an acceptable non-conforming use.

C. Special Uses not currently existing on a property in the B-3 district at the date of passage of this Zoning Ordinance amendment which vary from those listed in A above and the Table of Uses shall first be considered before the City Planning and Zoning Commission and approved by City Council on a case by case basis. New residential uses in the district may be allowed through obtaining a special use permit approval from City Council. Tattoo establishments shall not be permitted in the B-3 district. (RO 1379 9/15; R.O. 1380 § 10/2015)

**ARTICLE 14: “I-1” LIGHT INDUSTRIAL**

**Section 1. Purpose** This district is intended to provide for light manufacturing, processing, assembly/disassembly, fabrication, and treatment activities conducted in a non-detrimental manner to the community by reason of emission or creation of noise, vibration, smoke, dust or other particulates, toxic or noxious materials, odors, fire, explosive hazards, glare or heat.

**Section 2. Use Regulations**

**A. Permitted Uses in the I-1 district are as follows:**

1. Any use permitted in the Heavy Commercial districts.
2. Any primary use which includes light manufacturing, fabrication, assembly/disassembly, processing or treatment of goods and products.
3. Bottling works (C-2 Special Use)
4. Bus stations and terminals
5. Food and grain processing, canning, and storage, excluding meat, fish, and poultry and Ice processing and storage
6. Gun clubs
7. Machinery and service for farm, tractor and trailer rigs and well drilling equipment
8. One dwelling unit for a watchman or caretaker and family on the premises.
9. Outdoor theaters, drive-in
10. Parcel delivery, mail order services, and motor freight terminals
11. Wholesale distribution centers
12. Warehouses
13. Light welding
14. Any other use meeting the intent of this Article and comparable with the above.

**B. Special Uses in the I-1 district are as follows:**

1. Airports, heliports, and aircraft landing fields
2. Hospitals, sanitariums, and group care residences

3. Livestock feed and sales yards
4. Nursery or day care center and private schools as an accessory function for employees.
5. Oil and gas wells and pumping stations
6. Outside storage as a principal use, and junk yards
7. Penal, correctional, and other institutions necessitating restraint of patients
8. Saw mills or other similar types of mills like pulp mills.
9. Recycling activities in a structure with outside storage as a secondary use. Outside storage to be screened with an 8 foot high solid wall except for access openings, with a maximum opening of 16 feet with a solid gate(s).

## **ARTICLE 15: “I-2” HEAVY INDUSTRIAL**

**Section 1. Purpose** This district is intended to provide for a wide range of industrial activities including heavy manufacturing, fabrication, assembly/disassembly, processing and treatment activities conducted in a manner not detrimental to the rest of the community by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious materials odors, fire, explosive hazards, glare or heat.

### **Section 2. Use Regulations**

#### **A. Permitted uses in the I-1 district are as follows:**

1. Any use permitted in the I-1 District
2. Any primary use which includes heavy manufacturing, fabrication, assembly, disassembly, processing and/or treatment of goods and products,
3. Food and grain processing, canning, and storage, including meat, fish, and poultry
4. Foundries, iron works, and steel fabricating
5. Livestock feed and sales yards
6. Outside storage as a principal use and junk yards
7. Petroleum products including refining and storage
8. Saw mills and other types of mills
9. Any other use that is similar and comparable to those listed above.

#### **B. Special Uses. In the 1-2 district, special uses are as follows:**

1. Any special use in the 1-1 District
2. Landfills
3. Mining, loading, and hauling of sand, gravel, top soil, or other aggregate or minerals, including equipment and buildings or structures for screening, crushing, mixing, washing, storage or office purposes.
4. Recycling activities with a structure and permanent outside storage. Outside storage to be screened with an 8 foot high solid wall except for access openings, with a maximum opening of 16 feet with a solid gate(s).

## **ARTICLE 16: “PUD” PLANNED UNIT DEVELOPMENT**

**Section 1. Purpose** This district allows for more of a mixed use and an alternative to conventional zoning by permitting flexibility and innovation in land use, design, placement of buildings, use of open spaces, circulation facilities and off-street parking areas to encourage a more creative approach in the utilization of land. This district permits a more efficient, aesthetic and desirable development characterized by special features of the geography, topography, size or shape of a particular piece of property while simultaneously providing a compatible and stable environment in harmony with and at substantially the same population density and area coverage of the surrounding area.

**Section 2. Use Regulations** The PUD district permits any use or combination of mixed uses allowed in the various residential, commercial and/or industrial zoning districts established by this Ordinance in accordance with the procedures, requirements, and standards set forth herein.

**Section 3. Procedures, Requirements, and Standards** *Applications for a PUD district shall meet and follow the same procedures, requirements, and standards as that of a zone change request. In addition, the application for a PUD shall include a development plan that meets the following requirements and standards:*

- A. Ownership.** The tract shall be under unified ownership and shall be planned as a whole. If the tract is to be developed in phases, all phases must be indicated and a schedule shall be provided showing the chronological order of development.
- B. Conformance with the City's Land Use and Thoroughfare Plans.** The development shall conform to the City's Land Use and Thoroughfare Plans for land use, density, streets, and traffic.

**C. Lot Area Regulations.** A residential PUD or one mixed with commercial and/or industrial uses shall be no smaller

than five acres in size. A proposed commercial and/or industrial planned unit development shall be no smaller than two acres in size.

**D. Density.** In a residential PUD with a variety of housing types, the number of dwelling units allowed per net acre shall be as close to that outlined in the Comprehensive Master Plan for the property's current zoning classification. The maximum density standards may be exceeded if it can be demonstrated that a higher density will not adversely affect public facilities, traffic flows, safety or enjoyment of adjacent properties. Open space shall be provided to offset increases in dwelling unit density, if required.

**E. Setbacks.** Building setbacks for all perimeter property lines in the PUD shall blend well with adjacent property setbacks already developed or as set forth elsewhere in this ordinance for the current zoning district classification of the property, whichever one blends best.

**F. Height Restrictions.** Heights of structures shall blend well with adjacent structures already developed or as set forth elsewhere in this ordinance for the height restrictions for the property as currently zoned prior to the approval of the PUD, whichever height restriction is lower.

**H. Streets, Utilities, Services, and Public Facilities.** Because of the uniqueness of each PUD, the specifications and standards for streets, utilities, services, and public facilities may be different from those normally required in this and other ordinances if it can be demonstrated that such variations will not adversely affect the interests of the general public or City. In addition, the PUD proposal shall illustrate how the streets, utilities, services, public facilities and traffic circulation will function and serve the PUD as well as adjacent properties.

**I. Off-Street Parking.** The PUD shall provide the necessary amount of off-street parking spaces and illustrate how such proposed parking will adequately serve the entire development.

**J.** Any other information which allows staff to properly assess the request for the PUD district.

#### **Section 4. Building Permit Requirements**

**A.** Exact development information shall be submitted either with the application for a PUD, or separately at a later time as a whole, or in phases, prior to receiving a Building Permit for construction of any structures within the PUD.

**B.** The exact development plan shall be substantially the same as that submitted for the initial PUD request. In addition to the information submitted for the application for a PUD district, the development plan shall include specific details such as, but not limited to: type and placement of buildings/structures; internal building setbacks; building and structure heights; location, number, and operation of off-street parking spaces; street construction, flows and maintenance standards; traffic circulation; pavement and ROW widths; utility and facility type, location and service; easement type, location and service; size and location of open spaces; dwelling unit densities; and any other information which staff may require to assess and approve the request.

#### **Section 5. Decisions and Conditions**

**A. Approval.** The PUD request may be approved after a public hearing by the P & Z Commission, where additional conditions may be imposed to insure the public interest, safety and welfare and where the development plan has been presented to meet the general and/or specific uses, placement of buildings and structures, amount and location of open space areas, street and utility locations and performances, off-street parking areas, and other items essential to the development's operation, performance and ability to blend well with adjacent properties.

**B. Building Permit.** A building permit shall be issued only if the building or structure is in conformance with the approved development plan and only if all site and facility improvements are in place for the building or structure.

### **ARTICLE 17: AREA, SETBACK, DENSITY & HEIGHT REQUIREMENTS**

**Section 1. Generally** Every building, structure and use hereafter constructed or established shall meet the following area, setback and height requirements in addition to requirements set forth elsewhere in this and in other ordinances.

**Section 2. Residential Districts** *Area, Setback and Height requirements for the R-1 through R-3 zoning districts:* Area, setback and height requirements for residentially zoned districts shall be in compliance with the following chart.  
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SETBACK REQUIREMENTS (in feet)								
Zoning District	Use	Minimum Lot Size	Required Front Yard		Required Rear Yard	Required Side Yard		Maximum Height
			Local Arterial Street	Collector or Street		Interior Local/Collector or 1 story/2 Story	Corner Arterial Street	
R - 1 Residential	Single Family Residence	6,000 S.F.	25	35 *	20	5 / 10	25 / 35	35
R - 2 Residential	Single Family Residence	4,500 S.F. Per Unit	20	25	20	5 / 10	20 / 25	35
	Single Family Residence	4,500 S.F. Per Unit	20	25	20	10 / 10	20 / 25	35
	Duplex	4,000 S.F. Per Unit	20	25	20	5 / 10	20 / 25	35
	Multi Family Residence	2,000 S.F. Per Unit	20	25	20	10 / 10	20 / 25	35
R - 3 Residential	Single Family Residence	4,500 S.F. Per Unit	20	25	20	5 / 10	20 / 25	35
	Single Family Residence	4,500 S.F. Per Unit	20	25	20	10 / 10	20 / 25	35
	Duplex	4,000 S.F. Per Unit	20	25	20	5 / 10	20 / 25	35
	Multi Family Residence	1,500 S.F. Per Unit	20	25	20	10 / 10	20 / 25	35

\*On lots subdivided and recorded after the effective date of this ordinance, including Summary Plats, Replats, and Revisions of a P.U.D. If otherwise, the requirements in effect at the time the lots were recorded shall apply.

**Section 3. Commercial and Industrial Districts** *Setbacks in effect at platting shall apply to all commercial and industrial lots. All buildings, structures, and uses in the commercial and industrial districts on property platted after the date of this ordinance, except the B-3 district, shall meet the following setback, screening, landscaping, and height requirements. Buildings, structures and uses in the B-3 district are exempt from the following (RO 1385 7/16)*

**A. Front Yard Setback.** The minimum setback shall be 40 feet or the setback line established by an existing principal building on an adjacent lot within the same block, whichever is less.

**B. Side Yard Setback.** A side yard setback shall not be required, except where the side lot line abuts a residential zoning district or an adjacent street. Where the interior side lot line abuts a residential zoning district, the minimum side yard setback shall be 20% of the lot width or 35 feet, whichever is less. The lot shall be effectively screened by placing a solid fence or wall no less than six feet in height on the structure side of the lot line, made of brick, masonry, stone, wood or an irrigated and maintained landscaped area, planted at a density equal to the opacity and height of a solid fence or wall or any combination thereof. Where the side yard is on the street side of a corner lot, the minimum side yard setback shall be 30 feet or the setback line established by an existing principal building on an adjacent lot within the same block, whichever is less.

**C. Rear Yard Setback.** The minimum setback shall not be less than 15 feet, except where the rear lot line abuts a residential zoning district, where the rear lot line shall then be 20% of the lot depth or 35 feet, whichever is less. The lot shall be effectively screened by placing a solid fence or wall no less than six feet in height on the structure side of the lot line, made of brick, masonry, stone, wood or an irrigated and maintained landscaped area, planted at a density equal to the opacity and height of a solid fence or wall or any combination thereof.

**D. Building Height Restrictions.**

1. In the B-1 district, a building shall not exceed 35 feet in height.
2. In the B-2 and M-1 districts, a building shall not exceed 35 feet in height without Fire Department approval.
3. In the B-3 district, a building's height shall meet the approval of the Fire Department.

**E. Structure Height Restrictions.** Structures in all zoning districts not used for the support of people-like businesses or dwelling units, such as antennae, monuments, towers, church spires or other such structures shall be reviewed on an individual basis either through the Renewable Alternative Energy Systems Ordinance or the Telecommunications Ordinance application processes or by City staff through the Building Permit, Plan Review process to determine if the structure's height poses any threat to the health, safety, welfare and/or aesthetics of the adjacent properties or the community as a whole.

**F. Density Requirements.**

1. In the R-1 Zoning District, the density should not exceed five (5) dwelling units/acre.
2. In the R-2 Zoning District, the density should not exceed nine (9) dwelling units/acre.
3. In the R-3 Zoning District, the density should not exceed sixteen (16) dwelling units/acre. If a multi-story complex, there can be no more than 16 dwelling units per floor, as long as all other aspects of this ordinance have been met on the developed lot for open space, parking, accessory buildings, access-ways, garages, setbacks, etc.
4. In the RMS and MHC Zoning Districts, the density should not exceed nine (9) dwelling units/acre.
5. In Residential PUD Zoning Districts, the density should not exceed the highest density allowed on abutting lots.

**ARTICLE 18: GENERAL BUILDING & PERFORMANCE STANDARDS**

**Section 1. Purpose** The purpose of this article is to establish general building and performance standards to preserve and promote an attractive, well-planned and stable urban environment. All local, state and federal construction guidelines and regulations shall be adhered to during the time of construction and this is the responsibility of the owner/contractor.

**Section 2. Access to Public Streets** Except in the PUD district and as otherwise provided for in this and other ordinances, every residential dwelling unit structure constructed or erected after the effective date of this Ordinance shall be located on a lot which has access to or abuts, as a minimum, a local public street.

**Section 3. Buildings Per Lot**

**A.** In residentially zoned districts, every single family detached dwelling, mobile home, two family attached dwelling or multiple family dwellings used for rental purposes only, constructed or erected after the effective date of this ordinance, shall be located on one duly subdivided and recorded lot and there shall not be more than one principal building on one lot.

**B.** In the R-2 and R-3 zoning districts, more than one principal building may locate on one lot if that lot is held under one ownership and the dwelling units are used for rental purposes only.

**C.** In the R-2 and R-3 districts, where the dwelling units of multiple family dwellings are sold to individual owners, each dwelling unit shall be recorded as one lot of record.

**D.** When two or more lots, each of which lacks adequate area and dimension alone to qualify for a permitted use, are contiguous and are held under one owner, they may be used as one zoning lot for such use after summary platting such lots into one lot of record.

**Section 4. Accessory Uses** *In all residentially zoned districts, accessory uses shall meet the following requirements:*

**A.** Except when used for agricultural purposes in the R-1 district, an accessory building shall be compatible with the principal building that it serves and shall not be constructed prior to the construction of the principal building.

**B.** An accessory structure such as an antenna, tower or satellite dish shall not be closer than 60 feet from the front property line, five feet to any side or rear property line or be closer than 10 feet from the principle building or structure that it serves or any other structure on that lot.

**C.** A carport, garage, Ramada or similar accessory structure cannot be located closer to any property lines than the setbacks established and permitted for a principle building in the property's zoning district without approval of a setback variance.

**D.** An accessory structure not attached to the principal structure shall not occupy more than 40% of the required rear yard area, nor have more floor area than the principal structure it serves.



E. An accessory building shall not exceed the height of the principal building it serves.

**Section 5. Exceptions to Required Yards *Yard spaces shall remain open and unobstructed, except as follows:***

A. Eaves, overhangs, ornamental features, and other common projections normally associated with residential dwellings may project no more than 18 inches into required yard spaces.

B. Open stairways, balconies and chimneys may project no more than five feet into required yard.

C. An uncovered porch or terrace may project no more than 10 feet into required yard spaces.

D. Where a lot is adjacent to a lot with a principal building that projects into the required front yard setback and if both lots are in the same block on the same side of the street, then the required front yard setback of the lot may be that as established by the adjacent principal building setback.

E. In all zoning districts, required off-street parking may be located in required yards after receiving approval from P & Z Staff.

**Section 6. Exceptions to Height Requirements *Except in the B-3, following are exceptions to height requirements.***

A. If provided with an approved fire sprinkler and standpipe system, buildings can exceed the normal height requirements.

B. Churches and temple spires shall not exceed 75 feet in height.

C. In residentially zoned areas, privately-owned, non-commercial radio towers, antennas, monuments, steeples, chimneys or other similar structures shall not exceed 75 feet in height.

**Section 7. Off-Street Parking and Loading Requirements**

A. **Location of Off-Street Parking Spaces.** All required off-street parking spaces shall be located within the property lines of the same lot that accommodates the building or use being served, except that where an increase in the number of spaces is required by a change or enlargement of a use, or where such spaces are provided collectively and are to be used jointly or shared by two or more uses as provided herein, the required spaces may be located not more than four hundred (400) feet from the property line if the lot accommodates the use being served. If such is the case, a written agreement assuring their retention for such purposes, shall be properly drawn and executed by the parties concerned, approved as to form by the City Attorney, and content by the City Planner, and shall be filed with the application for a building permit.

B. **Shared Off-Street Parking.** Up to fifty (50) percent of the off-street parking spaces provided for other uses may be utilized by those uses seeking additional off-street parking spaces, provided that the two uses are not normally open, used, or operated during the same hours. The parking spaces must be within the distance requirement set forth herein.

C. **Rules for Computing the Number of Off-Street Parking Spaces.** The number of required off-street parking spaces to be provided for each use shall be determined as set forth herein.

1. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of a similar nature, as determined by the City Planner.
2. Except as otherwise indicated, the number of parking spaces shall be determined by the net floor area, which for the purpose of this section, shall mean that floor area of the building accessible to or devoted to use by the customer or patron. Net fl. area shall not include those areas used for storage, cooking, stairwells, etc.
3. Where fractional spaces result, the parking spaces required shall be constructed to be the nearest whole number.
4. Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity, or otherwise, to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the change or enlargement.

D. **Minimum Standards for the number of Off-Street Parking Spaces.** For all zoning districts, except B-3, the minimum number of off-street parking spaces shall be as follows: (Sq. Ft. – Square Feet / NFA = Net Floor Area). ADA Handicapped Parking requirements and minimum number of spaces shall be adhered to for all uses.

1. **Bowling alley:** 5 spaces per lane, plus additional spaces as required for ancillary uses.
2. **Business, professional, medical, or public office bldg:** minimum of 3 plus 1 for every 300 sq. ft. of NFA.
3. **Church or temple:** 1 space for every 3 seats or seating places in a pew.
4. **Community center, library, museum, private club/lodge:** minimum of 10 plus 1 for every 300 sq. ft. of NFA.
5. **Convention/civic/exhibition center, dance or assembly hall:** 1 for every 100 sq. ft. of NFA.
6. **Daycare facilities:** 2 for every 10 children, plus 1 for each employee.
7. **Furniture/household equipment or appliance store:** minimum of 2 plus 1 for every 300 sq. ft. of NFA.
8. **Hospital:** 1 for every 2 beds plus 1 for every employee during peak shift.

9. **Hotel, motel**: 1 per room plus additional spaces as required for ancillary uses.
10. **Industrial/Manufacturing establishment**: 1 per employee during peak shift plus 1 for each company vehicle.
11. **Motor vehicle or machinery sales**: 1 for each 300 sq. ft. of NFA.
12. **Outside sales areas**: display and sales area accessible to patron, the display area shall be paved for a parking lot.
13. **Residential dwelling**: 2 for every dwelling unit.
14. **Restaurant, night club, cafe, amusement establishment or similar activity**: 2 per 100 sq. f. of NFA.
15. **Retail store or bank**: minimum of 3 plus 1 for every 250 sq. ft. of NFA.
16. **Retirement/convalescent, sanitarium or group care facility**: 1 for every 4 beds.
17. **Theater, stadium, or auditorium (except school)**: 1 per 3 seats inside facility.
18. **Shopping center**: 5 per 1,000 sq. ft. of NFA, including open mall areas.
19. **Schools**: elementary/Junior high - 2 per classroom; high schools, trade schools, colleges -1 for every 3 students.
20. **Warehouses/storage establishment or motor freight terminal**: 1 per employee during peak shift plus 1 for each company vehicle used for business purposes.

**E. Minimum Standards for parking lots.** Parking lots shall be designed to City standards for efficient access, traffic flow and drive lanes and shall be approved by the City Planner and City Engineer.

**F. Loading Zones.** For all zoning districts where loading and unloading is needed, except the B-3 district, a designated off-street Loading Zone shall be provided so as not to obstruct parking, pedestrian, ADA or vehicular traffic flows on-site or to adjacent properties, streets and alleys.

**G. Construction and maintenance of Off-street Parking and Loading Zones.** All parking and Loading Zones shall be constructed with either 4 inches of base coarse and 1-1/2 inches of asphalt or a minimum of 6 inches of concrete.

1. Each parking space shall be a minimum of 9 x 18 feet with circulation drives of adequate width for accessibility.
2. Each Loading Zone shall be a minimum of 12 x 35 feet with a minimum height clearance of 15 feet and it shall not reduce the number of required parking spaces.

**Section 8. Fences, Walls, and Other Obstructions**

**A.** Except as set forth elsewhere in this Ordinance and in other ordinances, fences and walls shall comply with this Ordinance and with the existing Fence Code, located in City Code, Chapter 5 - Buildings, Section 1.10.

**B.** Fences shall not consist of barbed wire, except if the fence is built with conventional materials, then up to three strands of barbed wire may be placed at the top for security purposes. Such exception is only allowed in commercial/industrial districts.

**C.** In no instance shall a fence, wall or other obstruction restrict or invade upon the line-of-site requirements for vehicular traffic on corner lots, or other lots abutting streets where line-of-site issues may come into play.

**Section 9. Outside Storage** Outside storage of materials, not on display for direct sale or rental to the consumer, shall be enclosed and effectively screened from adjacent streets and properties by placing a solid fence or wall, made of brick, masonry, stone or wood at property line not less than 6 feet in height or the height of the materials being screened, whichever is greater.

**Section 10. Lighting**

**A.** All lighting, glare, and/or general illumination shall not be cast upon properties that are adjacent to the site from which the lighting, glare, and/or general illumination originates. All exterior lighting shall conform to the Wyoming Night Skies Act.

**B.** No lighting, glare, and/or general illumination which flashes, revolves, or otherwise resembles a traffic control signal or in any way creates a hazard for passing traffic shall be permitted.

**Section 11. Landscaping** *To promote and preserve an aesthetically pleasing setting, reduce water erosion, runoff and improve the quality of the environment, owners of buildings and parking lots hereinafter constructed in the R-3 through I-2 zoning districts, except B-3, shall provide and maintain landscaping in the amount and locations set forth herein.*

**A. Definition.** Landscaping shall mean trees with a combination of either shrubs or ground cover. Trees are mandatory for landscaping to count towards the total required landscaping.

1. Deciduous or evergreen trees shall be placed throughout the required landscaped area, spaced no more than 30

feet on-center. Trees shall have a minimum 2" caliper trunk at the time of planting, measured 6 inches above soil line.

2. Shrubs shall be a minimum of 2 feet in height at the time of planting. Spacing for shrubs at time of planting shall be based on the overall width of shrubs at maturity so they will cover at least 75% of the ground area at maturity.

3. Grass and/or low-lying green plants shall be planted to provide at least 90% coverage of ground area at maturity.

4. Mulch, bark, asphalt, concrete, gravel or other decorative or non-decorative aggregate are not permitted as ground

cover for the required landscaping purposes.

5. Materials. Planting materials shall be selected for drought tolerance, water conservation, and adaptability to area.

**B. Location and area requirements in the R-3, B-1, B-2 and I-1 zoning districts.**

1. To determine the required area to be landscaped, take the entire area to be developed and subtract the total area being used by all structures; this shall be called the remaining area. 12% of the remaining area is the area that must be landscaped to meet the landscape requirements of this ordinance.

2. The required landscaped areas shall be clearly visible from bordering streets.

3. Landscaping for Phased developments will be determined based on the square footage of area developed by phase.

4. If a lot is being partially developed, only apply the formula outlined in #1 above to the total area to be developed.

**C. Landscape screen fence.** This section only includes screen fencing made from living plants.

1. A screen fence shall have the opacity of a solid fence to a height of at least six feet.

2. A screen fence shall be irrigated and maintained continuously.

3. A screen fence shall be planted so that it will have the opacity of a solid fence at the time of maturity. In no instance shall plants that cannot survive in this close proximity to other plants be permitted in the screen fence.

4. A screen fence shall not extend onto sidewalks, drive lanes or public rights-of-ways.

5. A screen fence can account for up to 2% of the total 12% required landscaping.

6. A screen fence shall not be changed, modified, reduced or deleted at any time without approval of the P & Z Staff.

**D. Other location criteria.**

1. 50% of the required 12% landscaping and its required irrigation may be located within the public ROW with approval from the City Engineer or the WYDOT to ensure safety, practicality and accessibility are not hindered.

2. Landscaping located in the sight triangle shall be in accordance with City Code.

**E. Landscape plan review.** A landscape plan shall include the type and location of all living plants and irrigation system components. This plan shall be submitted in conjunction with the site plan during the building permit application and be approved in accordance with this ordinance. Changes to approved landscaping will require approval prior to planting.

**F. Installation.** In order to receive a certificate of occupancy, the irrigation system and all landscaping must be in place in accordance with the approved landscape plan. Only 1 Temporary Certificate of Occupancy (maximum of 60 days) may be granted to complete the landscaping.

**G. Maintenance.** It is the property owner's responsibility to maintain all landscaped areas, including public rights-of-way and sight triangles in a healthy, neat, trimmed, clean and weed-free condition, whether or not negligence or damage to the landscaping was the cause of the owner. Dead plant material shall be replaced with new plant material in accordance with this ordinance within 60 days of receiving written notice from city staff.

**H.** Approved landscaping shall not be changed, modified, reduced or removed at any time without approval of the P & Z Staff. When landscaping is removed for construction or any other reason, it shall be replanted within 180 days after being removed.

**I.** Landscaped areas shall not be used for retail sales, temporary signs or any kind of temporary or permanent storage. Landscaped areas shall not be used for any type of vehicular parking. This includes, but is not limited to, the parking of carts, ATVs, motorcycles, cars, trucks, utility vehicles, recreational vehicles, trailers, boats and airplanes.

**Section 12. Site Specific Drainage Control Requirements**

**A.** For a residential-commercial, commercial or industrial development, as required by the City Engineer or the WYDOT, 29-27

the developer shall provide a drainage site plan which shows the site elevations for the existing and developed conditions and how the storm water shall be detained on the property. This plan may also require the calculations and design for the detention structure as designed by a professional engineer registered in Wyoming.

**B.** The amount of storm water that shall be detained and the rate at which it can be released shall be in accordance with the standards and procedures as required by the City Engineer or the WYDOT, and as adopted and required by the City in this and other ordinances.

**Section 13. Site Specific Traffic analysis Requirements** For a residential-commercial, commercial or industrial development, as required by the City Engineer or the WYDOT, the developer shall provide a traffic impact analysis for developments which require in excess of 12 parking spaces. If required by the City Engineer, the traffic impact analysis shall be prepared by a professional engineer registered in Wyoming.

## **ARTICLE 19: SPECIAL FLOOD HAZARD AREAS**

**Section 1. Purpose** The purpose of this article is to provide for the regulation of building and performance standards to promote attractive, well-planned and stable urban conditions within special flood hazard areas.

### **Section 2. Finished Floor Elevation**

**A.** The finished floor elevation for all new construction on properties which lie within a special flood hazard area shall be 1 foot above the elevation indicated for that property on the most current FEMA Flood Insurance Rate Map for the City of Buffalo.

**B.** Reconstruction, alteration or additions to structures on properties which lie within a special flood hazard area, which are valued at more than fifty (50) percent of the value of the structure shall require flood proofing of the structure to at least the elevation indicated for that property on the most current FEMA Flood Insurance Rate Map.

**C.** Additions or enlargements to structures on properties which lie within a special flood hazard area, which are valued at less than fifty (50) percent of the existing structures shall have the finished floor elevation, of the addition or enlargement, at or above the elevation indicated for that property on the most current FEMA Flood Insurance Rate Map.

**D.** Restoration to structures on properties which lie within a special flood hazard area which is valued at fifty (50) percent or more of the value of the structure shall be flood proofed to at least the elevation indicated for that property on the most current FEMA Flood Insurance Rate Map.

## **ARTICLE 20: TELECOMMUNICATIONS or Wireless Telecommunications Facility (WTF)**

**Section 1. Purpose and Intent** The purpose and intent is to minimize the negative impact of Wireless Telecommunications Facility (WTF), establish a fair and efficient process for review and approval of applications, protect the health, safety and welfare of the citizens of the City of Buffalo, encourage the use and assure the improved appearance and functionality of existing facilities and insure all new facilities are constructed using stealth technologies and built to accommodate future growth.

### **Section 2. Exclusions; the following shall be exempt from this ordinance**

**A.** The fire, police, and other public service facilities owned and operated by the local, county, state, or federal government.

**B.** Any facilities expressly exempt for the City's citing, building, and permitting authority.

**C.** Over-the-Air reception devices including the reception antennas for direct broadcast satellites (DBS), multi-channel, multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals and are primarily used for reception.

**D.** Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, and other similar non-commercial Telecommunications.

**E.** FCC licensed amateur radio facilities require Administrative Approval and are exempt from all aspects of this ordinance except logical screening, setback, placement, construction, height and health and safety standards in accordance with State law.

**F.** Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11a, b, g {WiFi and Bluetooth}) where the facility does not require a new tower.

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### **Section 3. Permit Application Process and Other Requirements**

**A.** Applicants for a WTF Permit shall comply with the requirements set forth in this ordinance. The City Council designates the P & Z Staff as the Administrator to whom applications for a WTF Permit must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting, not granting, or revoking Permits. The City may at its discretion designate the P & Z Commission to accept, review, analyze, evaluate, and make recommendations to the City Council with respect to the granting, not granting, or revoking of Permits that are appealed to the City Council.

**B.** The applicant shall complete the following steps, in order, to assist administrator in expediting completion of the process:

1. Obtain and review the WTF Ordinance and discuss any questions regarding the requirements with Administrator.
2. Determine the best potential location for the WTF Facility, taking into consideration the City's defined priorities that meet the applicant's requirements for service. The application process will require an explanation for a selected location not using the highest priority available to the applicant. The City's priorities (listed from highest to lowest) are: ***On existing Towers or structures without increasing their height; on City- owned properties; on properties zoned for Industrial use; on properties zoned for Commercial use; and finally, on properties zoned for Residential use.***
3. Attend the pre-application meeting to address issues to help expedite the review and permitting process. A pre-application meeting shall also include a site visit. The pre-application meeting will: Determine the types of applications being made; define information required to support the proposed location; and, define the specific application requirements for what is needed for review and consideration by the City. Requirements will vary based on the specific location, type of facility selected and its Potential impact to the City and its citizens.
4. Deposit funds sufficient to reimburse the City for all reasonable costs of expert consultation in connection with the review of the application and construction or modification of the site. Funds will be deposited into an escrow account controlled by the City. The City's consultant will invoice the City as needed for reviewing the application or performing construction inspections. Funds remaining in the escrow account after issuance of the Certificate of Compliance will be returned to the applicant. The initial amount of the escrow deposit and the minimum balance to be maintained throughout the project varies based on the type of project as defined below:
  - a. New towers require an initial deposit of \$8,500 and maintain a balance of \$2,500 throughout project.
  - b. Co-locations or material modifications on existing structures, without increasing the height, requires an initial deposit of \$5,000 and maintaining a balance of \$1,500 throughout the project.
  - c. Applicants applying for a permit for multiple (3 or more) projects concurrently may negotiate a lower initial escrow amount since many aspects of concurrent projects may be addressed at the same time.
  - d. Should an escrow account fall below prescribed minimums and the City requests additional funding, all work will stop until the escrow account is replenished.
5. Submit 3 copies of applications to the Administrator. Incomplete applications will not be accepted.
6. Submit a report inventorying existing suitable Towers and structures within 2 miles of proposed Tower, unless applicant can show another distance is more reasonable and demonstrate why an existing structure cannot be used.

**C.** The City and its consultant will review the application to verify if it is complete and that it meets the requirements of the ordinance. Based on the review of the application the City may:

1. Approve, approve with conditions or deny a WTF Permit. Its decision shall be in writing and supported evidence contained in a written record. The burden of proof for the granting of the permit shall always be on the applicant.
2. Refer application to the P & Z Commission for recommendations.
3. Based on the agreed upon location for a new tower, if it is located in a zone other than an industrial zone, or if any variance is required, this application may require a public hearing through the P & Z Commission.

**D.** The City's approval/denial of an application shall be provided to the applicant in writing within 10 business days of decision.

**E.** Anyone can appeal the decision of staff or the P & Z Commission to the City Council by submitting written notification to the administrator. The appeal will be heard and considered at the next City Council meeting. The appeal must be submitted by noon on the second business day following the Commission meeting or within 30 calendar days after the decision by staff.

**F.** Limitations. A proposed rezoning, special use or variance which has been denied by the P & Z Commission and/or City Council on a particular tract of land for a particular purpose cannot again be applied for within 1 year from the date of the denial, unless the new request is determined to be substantially different from the original zoning request (i.e., an application for a different but not necessarily more restrictive zoning district, use, distance, area, height, use of stealth technology, etc.)

**G.** An Applicant that receives an approved Permit may proceed to the construction phase of the project. Since the application fee includes the Building Permit for the tower only, any additional support buildings will require a separate Building Permit and fee. The City will conduct its normal building inspection process during construction.

**H.** When the applicant completes project construction, they shall notify the administrator of the need for a final inspection.

**I.** When the City has verified that the site is constructed in accordance with the application, meets all the requirements of the ordinance and that the applicant has paid all monies due to the City, the City will issue a Certificate of Occupancy to the applicant that allows operational use of the site.

#### **Section 4. Permit Application Contents and Other Requirements**

**A.** All applications shall demonstrate the facility will be sited so as to be the least visually intrusive as reasonably possible.

**B.** All applications for the construction or installation of new WTF shall contain the information hereinafter set forth.

**C.** The application requirements may vary based on the type of facility and its location. Final determination of the specific information to be included with each application will be defined in the pre-application meeting, but will generally follow the established guidelines as set forth below:

**1.** An application to co-locate on an existing structure or modify an existing structure without increasing its height shall include: The names, addresses, and phone numbers of the person preparing application; the applicant; including legal name; the WTF facility owner; the property owner; the building contractors; the postal address and legal description of the property and its zoning designation; written verification that the facility complies with State and Federal rules and regulations; a copy of the State license; and, documentation that verifies the ownership of the site, and all lease or sublease agreements.

**2.** The applicant shall furnish a Visual Impact Assessment, which includes: a "Zone of Visibility Map" to determine locations from which the Tower may be seen; and, pictorial "before & after" representations of proposed facility.

**3.** A Certified site plan which shall include: The location, size, and height of all structures on the property to scale; landscaping, irrigation, and fencing; a description of the proposed Tower and Antenna(s) for aesthetics; grounding; parking and turn around facilities; signage; and, demonstrate how it shall effectively screen from view the base and all related structures.

**4.** A copy of the geotechnical sub-surface soils investigation, evaluation report, drainage report and foundation recommendation for a proposed or existing tower site.

**5.** Certification that the WTF Facility, foundation and attachments are designed and will be constructed to meet all local structural requirements for loads, including wind and ice loads.

**6.** Verification that proposed facility complies with current FCC RF emissions guidelines.

**7.** Documentation that satisfies the Liability Insurance requirements.

**8.** Documentation that satisfies the Performance Bond requirements.

**9.** Applications to co-locate on or modify an existing structure where an increase in height is requested requires #1 - #8 above, and: Documentation demonstrating the need for the proposed height of the Facility; propagation studies of the proposed site and all adjoining proposed and existing sites; certified structural drawings verifying structure can handle the load of additional antennas and/or structure; supporting documents showing actual intended transmission and the maximum effective radiated power of the Antenna(s); and, equipment specification sheets for the proposed radio, combiner, isolator, and antennas planned for the proposed and adjoining sites.

**10.** An application to install a new tower or facility will include the above information, and: The number, type, and design of the Tower(s) and Antenna(s) proposed and the basis for the calculations of the Tower's capacity to accommodate multiple users; and, the applicant shall be required to submit documentation demonstrating its meaningful efforts to secure shared use of existing Tower(s) or other structures within the City. Copies of written requests and responses for shared use shall be provided to the City in the application.

#### **Section 5. Visibility of Wireless Telecommunications Facilities**

**A.** WTFs shall not be lighted or marked, unless required by law.

**B.** Towers shall be galvanized and/or painted with rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained for the life of the Tower.

**C.** No tower shall exceed the height which requires lighting. If lighting is required, applicant shall provide a detailed plan for sufficient lighting as inoffensive as permissible under State and Federal regulations. Applicant shall also be in compliance with the Wyoming Night Skies Act.

**Section 6. Security of Wireless Telecommunications Facilities** All WTF and Antennas shall be located, fenced, or otherwise secured in a manner that prevents unauthorized access.

**Section 7. Signage**

**A.** WTFs shall contain signs no larger than 4 sq. ft. to notify persons of the presence of RF radiation or to control exposure to RF radiation and a sign with the I.D. number and emergency phone number(s) located on the equipment shelter or cabinet and visible from the access point of the site. On tower sites, an FCC registration site shall also be present. The signs shall not be lighted, unless required by law, rule, or regulation. No other signage shall be permitted, such as advertising.

**B.** The applicant or future owner of the site shall update the site identification number and emergency phone numbers of the WTF as displayed on the required sign within 6 months of any sale, assignment, or transfer.

**Section 8. Parameters of WTF Permits**

**A.** Permit shall not be assigned, transferred, or conveyed without written notice to and approval from the City within 6 months.

**B.** Such Permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled, or terminated for violation of the conditions and provisions of the WTF Permit or for a material violation of this ordinance after prior written notice to the holder of the WTF Permit and the applicant is given an opportunity to cure the same.

**Section 9. Application Fee** At the time a person submits an application for a WTF Permit for a new Tower or requires an increase in height to an existing Tower, such applicant shall pay a non-refundable application fee of \$3,000.00 to the City. If the application is for a WTF Permit for co-locating on an existing Tower or other suitable structure, where no increase in height of the Tower or structure is required, the non-refundable fee shall be \$1,000.00.

**Section 10. Liability Insurance**

**A.** A holder of a Permit for a WTF shall secure and at all times maintain public liability insurance for personal injuries, death, and property damage and umbrella insurance coverage for the duration of the Permit in amounts as set forth below:

- 1. Commercial General Liability & automobile coverage:** \$1 million per occurrence/ \$2 million aggregate.
- 2. Workers Compensation and Disability:** Statutory Amounts

**B.** The Commercial General liability insurance policy shall specifically include the City and its officers, employees, agents, and consultants as additional named insured's.

**C.** The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a "Best's" rating of at least A.

**D.** The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days prior written notice of the cancellation of the insurance.

**E.** Renewal or replacement policies or certificates shall be delivered to the City at least 15 days before the expiration of the insurance that such policies are to renew or replace.

**F.** Provide the city the policies/certificates before construction, but in no later than 15 days after the granting of the Permit.

**Section 11. Indemnification** Any application for WTF that is proposed on City property, pursuant to this Ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the City, and its officers, Councils, employees, commission members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges, arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive,

or expenses arising therein, either from law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, exempting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the City, or its servants or agents. With respect to the penalties, damages, or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

**Section 12. Default and/or Revocation** If WTF are repaired, rebuilt, placed, moved, relocated, modified, or maintained in a way not in compliance with this Ordinance or the WTF Permit, then the City shall notify the Permit holder in writing of such violation. After receiving written notification of the violation, a Permit holder has 60 days to cure such violations. The City shall consider extensions to the cure period as necessary upon the Permit holder demonstrating that despite its good faith efforts, such default cannot be reasonably cured within the provided time. A Permit holder still in violation after the expiration of the cure period may be considered in default, subject to fines as set forth in this Ordinance, and the Permit is subject to revocation.

**Section 13. Temporary Communications on Wheels (COW)**

A. If a COW becomes inoperable due to force majeure or Acts of God, it must be removed from the site within 30 days.

B. If a COW must be used, it must be removed from the site within 48 hours of the conclusion of the event.

C. In the event of an emergency or natural disaster which renders other forms of communication nonviable, thus necessitating a COW, the City and the Telecommunications provider shall agree to special terms and conditions as required by both entities.

**Section 14. Relief** Any applicant desiring relief, waiver or exemption from any requirement of this Ordinance may request such at the pre-application meeting. The burden of proving the need for the request lies solely with the applicant. The applicant shall bear all costs to the City in considering the request. No request shall be approved unless the applicant provides convincing evidence that the request will have no significant affect on the health, safety and welfare of the City or its residents.

**ARTICLE 21: RENEWABLE/ALTERNATIVE ENERGY SYSTEM (RAES)**

**Section 1. Purpose and Intent** The purpose and intent of this ordinance is to allow for the placement of RAES to create alternative energy, while creating the smallest amount of nuisance possible to the general public. The boundary limits wherein this ordinance is enforceable include any properties or structures located within the City limits of Buffalo, WY, as defined by the Official City Boundary map, as maintained by the P & Z Department.

**Section 2. Permit Application Process** *All Applicants for a RAES Permit shall comply with the requirements of this ordinance. City Council designates the Planning and Zoning Department as the Administrator to whom applications must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting, not granting or revoking RAES Permits. The City may at its discretion designate the P & Z Commission to accept, review, analyze, evaluate and make recommendations to City Council regarding the granting, not granting or revoking of an RAES Permit on cases that are appealed to City Council. The applicant for an RAES Permit shall complete the following steps, in order, to assist City staff in expediting the completion of the application process:*

A. The applicant shall submit 4 copies of the application to administrator for review. Incomplete applications may be rejected. The administrator will review the application to determine if it is complete. If application is deemed complete or incomplete, the applicant will be provided written notice with the administrator's action with regard to the application. Actions which may be taken by the administrator with respect to the completed application include: Approve, approve with conditions, request additional information or deny an RAES Permit. The administrator will provide its decision to the address on the application. The burden of proof for the granting of the permit shall always be upon the Applicant; and/or, refer the application to the P & Z Commission for further recommendations if applicant is dissatisfied with staff's decision; and/or, should any variance be required, this application shall require a public hearing through the P & Z Commission.

B. Anyone can appeal the decision of the administrator to the P & Z Commission by submitting written notification to the administrator, stating the desire to appeal the decision. The appeal will be heard and considered at the next regularly scheduled meeting. The appeal must be submitted within 5 business days of being notified of administrator's decision. Written notice sent to address on the application shall be deemed sufficient for the purposes of this ordinance.



C. Limitations. A proposed variance which has been denied by the P & Z Commission and/or City Council on a particular tract of land for a particular purpose cannot again be applied for within 1 year from the date of the denial, unless the new request is determined to be substantially different from the original request (i.e. an application for a different but not necessarily more restrictive zoning district, use, distance, area, etc.)

D. Applicants receiving approved Permits may begin construction. Since permit is for the RAES only, all support/accessory structures will require a separate Building Permit and fee. City will conduct the building inspection process for construction.

E. After completing construction, the applicant shall request a final inspection from administrator.

F. When City verifies site was constructed in accordance with the application, the RAES meets the Ordinance requirements and all monies are paid to the City, the City will issue a Certificate of Compliance that allows operational use of the facility.

**Section 3. Notification of Applicant and/or Certificate Holder** It is the responsibility of the permit applicant, holder and/or Certificate of Compliance holder to notify administrator of all pertinent addresses and address changes that may have taken effect from the date of application, while RAES is in use. Written notice sent to the last address provided to administrator by any of the previously listed people in this section shall be deemed sufficient for any purposes set forth in this Ordinance.

#### **Section 4. Permit Application Contents**

A. Applications shall contain demonstrations as needed to show the RAES is the least intrusive as reasonably possible.

B. Applications for RAES construction/installation shall contain, but may not be limited to, the information contained herein. Where Certification is called for, it shall bear the signature and seal of a Professional Engineer/Architect licensed in Wyoming.

C. The application requirements may vary based on the type of facility and its location. Final determination of the specific information to be included with each application will be defined by the administrator, but will generally follow the established guidelines as set forth below. Permit applications may include, but not be limited to the following:

1. Name, address and phone number of the Applicant and Property Owner where RAES is to be located.
2. The Postal address, legal description and Zoning designation of the property.
3. A scaled drawing showing the square footage of the property and all lot lines.
4. A written statement verifying the RAES complies with State and Federal rules and regulations.
5. Documentation that verifies ownership of, or the right to occupy the site.
6. Documentation, drawings or descriptions showing how the RAES will visually impact neighboring properties.
7. **A site plan shall include:** Location, size and height of proposed/existing structures and system(s); landscaping, irrigation and fencing; Warning Signage; electrical grounding and junctions to electrical service; and, the administrator can require applicant to have site plan certified in regards to structure or nature.
8. The proposed stealth applications for the RAES for aesthetic purposes and screening from neighboring properties.
9. Certified structural drawings showing RAES foundation and attachments will meet required wind and snow loads.
10. Certified soils report verifying the soil can handle the live and dead load of the proposed structure.
12. Documentation satisfying Liability Insurance requirements, for Wind Systems only.
13. Documentation demonstrating the need for the proposed height of the RAES.
14. The number, type, design and Equipment specification sheets for the proposed RAES system(s).

#### **Section 5. General Building Requirements**

A. The administrator may require the system installer to be a licensed Wyoming contractor, experienced in installing an RAES.

B. Both the system and all accessory structures shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings. This shall include the utilization of stealth or concealment technology as required by the City.

C. The holder of a Permit granted under this Ordinance shall obtain, at its own expense, all permits and licenses required by applicable Law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity having jurisdiction over the applicant.

D. The Permit holder shall notify City of intended facility Modifications and shall apply to modify, relocate or rebuild an RAES.

E. No artificial lighting of an RAES is permitted unless required by Federal Aviation Administration, due to structure's height.

F. An RAES shall be constructed to comply with all local, State and Federal construction building and electrical codes.

G. An RAES that is to be interconnected with a local electrical utility shall be done in accordance with the Wyoming Public Service Commission and the utility provider's rules and regulations.

H. Wind Energy System owners shall always maintain current Liability Insurance covering bodily injury and property damage with minimum limits of \$1 million per occurrence and \$2 million aggregate. Certificates of insurance shall be provided to City before a Certificate of Compliance can be issued and shall be available upon request when the System is on owner's property.

I. Upon completion of construction, and prior to operating the system, the applicant must call the Administrator to request a final inspection of the system to ensure the system has been installed in accordance with the approved permit.

## **Section 6. Nuisance Control**

A. Measures shall be taken to prevent the following nuisances from disrupting the residential nature and setting of neighborhoods throughout the City. Applicant and owner are responsible for preventing the development of, and correcting any nuisance created by, the RAES which could adversely affect neighboring properties and/or vehicular passersby on local streets:

1. **Solar Energy Systems:** Glare from reflections created by system onto neighboring properties and vehicular passersby on roadways; debris off of system detached by natural forces; visual impairment of neighboring property views which hinder safety; create physical obstructions which reduces or eliminates the emergency responders ability to access the permitted property; and, appearance of system must always remain in good condition.

2. **Wind Energy Systems:** Audible sound from system shall not exceed 50 decibels measured at exterior property boundaries of site; methods for measuring/reporting acoustic emissions shall be equal to minimum standards for precision described in AWEA standard 2.1, titled "*Procedures for the measurement and reporting of acoustic emissions from wind turbine energy systems, volume I, first tier.*"; minimize shadow flicker and glare created by system onto neighboring properties or vehicular passersby; prevent disruption or loss of radio, telephone, television, internet or other wireless signals to neighboring properties. System owner shall be responsible for mitigating harm caused by the system; debris off of system detached by natural forces; Visual impairment of neighboring property views which hinder safety; create a physical obstruction which reduces or eliminates the emergency responders ability to access the permitted property; and, system must always remain in good condition.

B. Systems that fall into disrepair and create a nuisance shall be repaired or shut down within 24 hours of when nuisance is first reported. If repairs cannot be administered within 24 hours, the system must be turned "OFF" until such repairs can be made.

C. Irreparable and non-functional systems must be removed from the property in accordance with Section 7 below.

## **Section 7. Safety Precautions**

A. **System Protection.** Wind Energy Systems shall be constructed to prevent unauthorized persons from climbing them by securely fencing off access to wind turbines and electrical equipment to prevent injury or death from the system components.

B. **Controls and Brakes.** Wind Energy Systems shall be equipped with redundant braking systems which include aerodynamic over-speed controls which vary the pitch of the blades to slow them down, as well as a fail-safe mechanical braking system, to slow down the rotation speed of the blades at the hub. Stall regulation is not an approved or sufficient braking system.

C. **Wind Resistance.** Every RAES shall be designed and certified to withstand sustained winds of 90 miles per hour (90 mph) is in accordance with City Building Code requirements for wind load requirements for Exposure-C classifications.

**D. Batteries.** An RAES containing batteries for any reason shall comply with all local, State and Federal regulations/guidelines for the safe handling, use, storage and disposal of said batteries.

**E. Clearance.** RAESs shall be installed on private property, with no parts overhanging public Rights-of-Way. Caution must be taken during design and planning of system to ensure no part of the system will interfere with overhead or underground utilities.

**F. Bottom Sweep of propeller.** The tips of propellers from a Wind Energy System at the lowest point in its rotation shall be no closer than 10 feet from the existing grade in all installations.

**Section 8. Setback Requirements** A stand alone Wind Energy System shall be no closer to any property line than the total height of the completed unit, plus five feet. Should the structure collapse for any reason, it shall not be capable of falling onto an adjacent property or structure. The height is measured from the pre-existing grade to the highest point of the structure.

**Section 9. Height Restrictions**

**A. In Residential Districts.** The RAES shall not exceed **35** feet from the pre-existing grade to the highest point of the system, or the height needed to meet the setback requirements in Section 8 above, whichever is lesser in height.

**B. In Commercial Districts.** The RAES shall not exceed **35** feet from the pre-existing grade to the highest point of the system, or the height needed to meet the setback requirements in Section 8 above, whichever is lesser in height.

**C. In Industrial Districts.** The RAES shall not exceed the height to meet the setback requirements in Section 8 above.

**ARTICLE 22: SIGN ORDINANCE**

**Section 1. Purpose**

**Section 2. Applicability**

**Section 3. Definitions**

**Section 4. Sign Regulations**

**Section 5. Administrative Procedure**

**Section 6. Location of Signs**

**Section 7. Exemptions**

**Section 8. Nonconforming Signs**

**Section 9. Prohibited Signs**

**Section 10. Sign Standards**

**Section 11. Abatement or Removal**

**Section 12. Variance Procedure**

**Section 13. Enforcement**

## **Section 1. PURPOSE:**

The purpose of this Chapter is to afford the business and residential community of Buffalo equal and fair opportunity to advertise and promote its products and services without discrimination; to protect and enhance the community character and visual environment; to preserve the right of the citizens to enjoy our Town's scenic beauty; to improve pedestrian, bike and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations.

Signs are an important aspect of the City. When abused, signs create a visual blight which detracts from the quality of the environment and can increase the risk of vehicle/pedestrian accidents if they are not properly sited or if they represent a distraction. When unduly restricted, the lack of signs creates a hardship for merchants who rely on effective signs to identify their establishments.

The Sign Ordinance is intended to provide comprehensive regulations for signs within the City of Buffalo to eliminate confusing, distracting and unsafe signs while assuring the reasonable efficient transfer of information and enhancing the visual environment of the City of Buffalo. It is declared that the regulation of signs within the City of Buffalo is necessary and in the public interest and also related to the following goals:

- A. To provide a pleasing overall environmental setting and community appearance which is deemed vital to tourism and the continued economic attractiveness of the City; and
- B. To enhance the economy and the businesses and industries by promoting reasonable, orderly and effective signs which achieve better communication with the public; and
- C. To promote the public safety, welfare, convenience and enjoyment of the unique historic character of the City of Buffalo; and
- D. To minimize distractions to motorists and pedestrians while promoting visual harmony and safety of the community; and
- E. To allow signs appropriate to the planned character of each zoning district.

## **Section 2. APPLICABILITY:**

The provisions of the Chapter shall apply to all signs located within the City boundaries; no sign, unless specified, shall be erected, altered, or relocated without prior authorization pursuant to this Chapter.

## **Section 3. DEFINITIONS:**

**Animated Sign.** A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:

**Electrically Activated.** Animated signs producing the illusion of movement by means of electronic, electrical or electro-mechanical input and/or illumination capable of stimulating movement through employment of the characteristics of one or both of the classifications noted below:

1. **Flashing.** Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period illumination is either the same as or less than the period of non-illumination. For the purpose of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds 4 seconds.
2. **Patterned illusionary movement.** Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

**Environmentally Activated.** Animated signs or devices motivated by wind, thermal changes or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

**Area of a Sign.** The area of a sign shall include the entire area within any type of perimeter border that may enclose the outer limits of any writing, representation, emblem, figure, or character, exclusive of the supporting framework.

An area circumscribed by the smallest geometric shape created with a maximum of eight straight lines, which will enclose all words, letters, figures, symbols, designs and pictures, together with all framing, background material, colored or illuminated areas and attention-attracting devices, forming an integral part of an individual message except that:

1. Signs having no discernible boundary shall have the areas between letters, words intended to be read together and any device intended to draw attention to the sign message included in any computation of surface area.
2. For spherical, cylindrical or other three-dimensional signs the area of the sign shall be computed from the smallest two-dimensional geometrical shape or shapes, which will best approximate the greatest actual surface area visible from any one direction.

For two sided signs (such as projecting or free-standing signs), only one (1) sign face is included when determining the total sign area. Where a sign has three (3) or more faces, the area of all faces shall be included in the total sign area.

**Banner:** A sign of fabric, plastic, paper, or other light pliable material not completely enclosed by a rigid frame, and which is suspended, mounted or attached to building or poles. Flags, pennants, streamers and temporary signs, defined elsewhere, shall not be considered banners.

**Beacon.** Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one (1) or more beams that rotate or move.

**Changeable Sign.** A sign with the capability of content change by means of manual or remote input, including signs which are:

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**Electrically Activated.** Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. Also known as LED signs.

**Manually Activated.** Changeable sign whose message copy or content can be changed manually.

**Flag.** Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of government, political subdivision or other entity.

**Kiosk.** A freestanding structure with two (2) or more sides used to display community and visitor information, business directories and maps.

**Marquee Theater Sign.** A sign on a bona fide performing arts center or theater used for bona fide performing arts and entertainment purposes, and includes movie theaters, that is attached to and supported by the building.

**Multiple-Business Complex.** A group of structures housing at least two (2) separate businesses or agencies, or a single structure containing more than one (1) business with separating walls and at least one outside access for each business which shares a common lot, access and/or parking facility.

**Multi-Tenant Building,** One building shared by two (2) or more tenants or occupants that are separate tax entities.

**Mural.** A painting applied to the exterior of a building for artistic and aesthetic purposes.

**Pennant.** Any lightweight plastic, fabric or other material, not containing a message of any kind, suspended from a rope, wire, pole or string, designed to move in the wind.

**Primary Building.** A fully enclosed and roofed structure, or portion thereof in separate ownership, which houses the primary uses of at least one (1) business, residence or other establishment. Accessory building or outbuildings are not included in this definition.

**Sign.** Any material, structure, statue or device used or located out-of-doors or on the exterior of any building or window, for the purpose of displaying, illustrating or directing attention to a business or building, advertisement, announcement, notice, name or emblem for the identification of a person, place, object or product. The definition of a sign shall also include the sign structure, supports, lighting system, and any attachments, flags, ornaments or other features used to draw the attention of observers.

**Sign, Abandoned.** Any sign applicable to a use which has been discontinued for a period of sixty (60) days or more.

**Sign, Building.** Any sign attached to any part of a building, as contrasted to a freestanding sign.

**Sign, Campaign.** A temporary sign announcing or supporting political candidates or issues in connections with a specific national, state, or local election.

**Sign, Directional.** A sign limited to directional messages, principally for pedestrian or vehicular traffic, such as “one way”, “entrance”, and “exit”, but not used for advertising.

**Sign, Directory.** An on premise identification sign that contains the name of three (3) or more businesses located within the same building or complex.

**Sign, Freestanding.** Any sign supported by a structure or supports that are permanently anchored in the ground and that are independent from any building or other structure.

**Sign, Government.** Any sign erected and maintained pursuant to and in discharge of any government function, or required by law, ordinance, or other government regulation.

**Sign, Identification.** A sign incorporated into the structure of a building for the sole purpose of identifying the building or its address.

**Sign, Incidental.** A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as “no parking”, “entrance”, “loading only”, “telephone”, and other similar directives. No sign with a commercial message shall be considered incidental.

**Sign, Inflatable.** Any three (3) dimensional air or gas filled object which is attached or tethered to the ground, site, merchandise, structure, or roof and used to attract attention to a business or activity.

**Sign, Internally Lit.** Any sign lighted by a source which is inside of or behind an enclosed sign or sign face made of translucent material.

**Sign, Legal Nonconforming.** Any sign which was legally erected or existed prior to the adoption of this Section that does not comply with the provision of this Chapter.

**Sign, Monument.** A ground-related, freestanding sign which is attached to the ground or to its base on grade by a solid sign structure that extends from the ground or base to the sign face at the same or greater width as the sign face.

**Sign, Memorial.** A sign, tablet, or plaque memorializing a person, event, structure or site.

**Sign, Non-Conforming.** Any advertising structure or sign existing at the time of adoption or amendment of this Ordinance which does not conform to the regulation herein.

**Sign, Off –Site.** Any sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premise on which the sign is located.

**Sign, Portable.** A sign that is not permanently affixed to a building, structure or site. This definition includes “sandwich signs”, designed to be placed in a sidewalk or pedestrian walk way and placards temporarily affixed to a structure other than a wall.

**Sign, Projecting.** Any sign affixed to a building or wall in such a manner that its leading edge extends more than six (6) inches beyond the surface of such building or wall.

**Sign, Real Estate.** Any sign pertaining to the sale or lease of the premises on which the sign is located.

**Sign, Roof.** Any sign mounted on the roof of a building. Also any sign which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof; the eave line of a building with a gambrel, gable or hip roof; or the deck line of a building with a mansard roof.

**Sign, Subdivision Identification.** A monument style identification sign located at the entrance of a subdivision or planned unit development.

**Sign, Temporary.** Any sign that is used temporarily and is not permanently mounted and which is constructed of cloth, canvas, light fabric, paper, cardboard, or other light materials, without frames, which is displayed for a limited time only.

**Sign, Wall.** A sign with messages or copy erected parallel to and attached to or painted on the outside wall of a building or a canopy.

**Sign, Warning.** Signs limited to a message of warning, danger or caution.

**Sign, Window.** Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window glass panes and is visible from the exterior of the window. This term does not include merchandise displays.

**Streamer.** An attention-attracting device consisting of two (2) or more pennants, banners, balloons, ribbons, reflectors, fringes or similar objects strung together on a common line, pole, or sign structure, or attached to one or more products offered for sale.

#### **Section 4. SIGN REGULATIONS:**

##### **A. General Provisions.**

1. No sign shall be erected or altered unless it is in compliance with the regulations of this Ordinance.
2. Unless exempted under Section 7 of this Ordinance, a permit issued by the City of Buffalo shall be required for the erection, alteration, or reconstruction of any outdoor sign visible from the exterior of any building.
3. All signs shall be constructed of durable materials and maintained in good condition. No sign shall be permitted to become dilapidated or a hazard to the health, safety or general welfare of the community.

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4. All signs shall comply with the existing state and federal laws and regulations.
5. Every residential dwelling unit shall be identified by a street number visible from adjacent streets. Also, every non-residential building or group of buildings shall be identified with a street number visible from adjacent streets, not to exceed three (3) square feet in area. This sign shall not be counted as part of the total sign area permitted for said building or groups of buildings and shall not require a sign permit.
6. No sign shall be located so as to conflict with the clear and obvious appearance of public devices controlling traffic or impair the safety of moving vehicles by distracting the vision of the driver.

**B. Sign Plans.** The owner, landlord, occupant, or tenant of a building seeking new signage or changing existing signage shall submit and receive approval for an overall sign plan for their property, meeting the standards in Section 10 of this Ordinance.

**C. Sign Permit and Fee Required.** No person shall erect, alter, or relocate any permanent sign or mural within the City of Buffalo without first submitting a Sign Application and fee, and receiving a Sign Permit for the City, unless the sign is exempt pursuant to Section 7 of this Ordinance. Any person who hangs, posts, or installs a sign that requires a permit under this Ordinance and who fails to obtain an approved permit before installing the sign, shall be required to remove the non-compliant sign, or be subject to a fine as specified in this Chapter.

**D. Sign Applications.** All sign applications shall be submitted to the City Building Department to be reviewed for compliance with the requirements set forth in this Ordinance. A Sign Application shall include the appropriate fee plus two copies of the following items (one copy will be returned to the applicant when the sign permit is issued):

1. A completed Sign Application form supplied by the City.
2. A drawing of the sign including dimensions of all sign faces; descriptions and colors of materials to be used for sign faces and support structures, including all posts and hardware; and a detailed sign lighting plan which clearly indicates the locations, type and wattages of all sign lighting fixtures, and plan of installation depicting clearances and setbacks for the subject property.
3. A Site Plan which specifies the location of the building and proposed new sign structure, as well as the size, dimension and location of all existing on premise signs-including freestanding signs and wall signs-relating to the particular business making such application. Any other information deemed necessary by the Planning and Zoning Commission, the Building Inspector or the City Planner.
4. For free-standing signs. If the proposed sign is free-standing, or projecting, the site plan shall specify the sign location on the parcel and show its relation to adjacent streets, buildings, and property line including necessary setbacks from any intersecting roadways. Construction details are required for review for safety and code compliance by the City Building Inspector.

5. For wall signs: A building elevation which specifies the location of the proposed new sign, as well as the location of any other sign on the building relating to the particular business making such application.
6. Buildings with multiple occupants. Tenants of buildings with multiple occupants shall include a copy of the approved overall sign plan and indicate how their proposed sign(s) fit(s) into the approved plan.

#### **Section 5. ADMINISTRATIVE PROCEDURE:**

All signs shall meet the standards set forth in this Chapter.

A. After receiving a Sign Application for a sign permit, including the application fee, the Building Inspector and/or City Planning Director shall review the application and advise the applicant within seven (7) days on the application's completeness and general conformance with the requirements set forth in this Ordinance and shall issue this permit if it complies with this ordinance.

B. The Sign Permit shall be retained on site until the construction is completed. The Sign Permit shall state:

1. The type and description of sign(s) as defined in this Ordinance;
2. The location at which the approved sign(s) will be installed;
3. The date of issuance;
4. The name of the sign owner;
5. The name of the person or company installing the sign.

**C. Variances and Appeals.** Variances and appeals to the Building Inspector's decision shall be requested in writing and directed to the City Planning and Zoning Commission, which shall schedule the item with proper notice on its next regularly scheduled meeting.

**D. Expiration.** Sign installation permits shall expire one (1) year from the date of issuance, if the sign has not been erected or altered pursuant to the issue permit. A permit extension may be obtained from the Building Inspector for a period not to exceed six (6) months.

#### **Section 6. LOCATION OF SIGNS:**

1. No sign shall be located in or over the public Right-of-Way, except for traffic control devices, directional signs authorized by the City or State agencies, projecting, portable or temporary signs.
2. No permitted sign in a Non-Residential Zone shall be located within ten (10) feet of a Residential Zone.

3. No signs shall be located or placed where they will interfere with safe sight distance (refer to Chapter 21 Subdivision Regulations: Article 16, Section 3-T), traffic flow, pedestrian traffic, views or vistas, or any aspect of public safety.

### **Section 7. EXEMPTIONS:**

A sign Permit is not required for the following types of signs in any zoning district in which they are allowed:

- A. All signs erected in a public right-of-way by a public agency;
- B. Official notices issued by any court, public agency, or officer;
- C. Government signs;
- D. Property notification signs: Non-illuminated, private warning signs and for sale or for rent signs are permitted, provided that they do not exceed six (6) square feet per side in residential areas;
- E. Memorial signs;
- F. Flags, either official or historic, of any state or nation;
- G. Signs designated by the City Council as having historical significance to the City;
- H. Directional signs, including signs designating parking area entrances and exits; parking lot directional signs shall not project higher than seven (7) feet above the established grade of the parking area;
- I. Temporary signs pertaining to a specific sale or event which are displayed no longer than fifteen (15) days. Temporary signs may not be larger than twenty (20) square feet;
- J. Any sign in or upon a vehicle, provided that the vehicle is not left standing in conspicuous places nor used primarily as an advertising device;
- K. Holiday decorations such as signs or other material temporarily displayed on traditionally accepted civic, patriotic, or religious holidays;
- L. Window signs;
- M. Incidental signs which do not exceed four (4) square feet for each exposed face. Such signs shall not project higher than seven (7) feet above the established grade and must not convey a commercial message;
- N. Campaign signs. Such signs shall not exceed 32 square feet, shall not be placed prior to the beginning of the primary filing period, and shall be removed within ten (10) days after the election. All successful candidates in a primary election may display their signs until 10 days after the general election. Signs shall be located on private property and shall not impede the public right-of-way;

O. Identification signs for single-family dwellings, provided such signs do not exceed (3) square feet in area;

P. One identification sign per commercial building, provided such sign does not exceed four (4) square feet in area;

Q. Street numbers: Numbers placed on structure or lot for purposes of identifying the address or the location;

R. Construction Signs: Construction signs for buildings or projects, naming owners, contractor, subcontractors and architects shall be permitted, provided that they do not exceed one sign of fifty (50) square feet for each street frontage of the building or project having a current building permit;

S. Town, State, or National historical signs;

T. Informational signs. An on-premise sign designed to provide courtesy information or direction to the public by using such words as “entrance”, “exit”, “parking”, “drive-up”, “restrooms”, or similar directional instruction, but not including any advertising of the business. The directional signs shall not exceed six square feet in area. The maximum height should be four feet unless attached to an existing freestanding sign;

U. Portable signs.

In addition, the repainting, refacing, changing of parts, and maintenance of legally conforming signs shall not require a permit, provided that the changes do not enlarge or increase the sign height or prevent compliance with this Chapter.

### **Section 8. NONCONFORMING SIGNS:**

All signs that are in existence at the time of adoption of this Chapter, and its amendments, may continue for the life of the sign. Existing signs may be refurbished, refaced, renamed and businesses change ownership without a permit but may not be enlarged, relocated or increased in height without complying with the regulations herein. Such sign or signs can be replaced only with a conforming sign or signs, regardless of how the original sign was approved or erected. A new and separate permit will be required to change, alter, add or otherwise modify any signs within the City of Buffalo. Nothing in these sections shall be construed to prohibit the normal maintenance and upkeep of legally existing and conforming signs, in so far as they retain their existing size, configuration, etc.

### **Section 9. PROHIBITED SIGNS:**

**Signs which are prohibited are those which:**

A. Are of a size, location, movement, content, coloring, or manner of illumination which may be confused with, or construed as, a traffic-control device or which hide from view any traffic or street or street sign or signal;

- B. Are placed on any curb, sidewalk, post, pole, hydrant, bridge, tree or other surface located on public property, including the posting of handbills except as may otherwise specifically be permitted by this section.
- C. Are erected after adoption of this code and do not comply with this provisions of this section;
- D. Streamers of any size or type;
- E. All vertical banner flag signage adjacent to public sidewalks and within rights of way.

**Section 10. SIGN STANDARDS:**

**Sign zones In the City of Buffalo are as follows:**

- 1. Downtown – the B-3 Downtown Business District**
- 2. Hart Street (East City Limits to Main Street)**
- 3. Fort Street (Main Street to West City Limits)**
- 4. North and South Main (North City Limit to South City Limits outside the B3 Zoning District)**
- 5. All other commercial/business and residential areas.**

**A. All Zones.**

**1. Sign Materials and Color.**

- a. Materials are encouraged to be used that are in harmony and relate to the building and architecture;
- b. All signs shall be constructed of painted, stained or carved wood, brick or stone, glass, vinyl, metal or other materials which are corrosion resistant, painted, or anodized, all of which are treated to prevent reflective glare;
- c. Support structures – including, but not limited to, post, poles, mountings, and sign sides or edges – shall be faced or covered with material which is corrosion resistant, painted or anodized;
- d. All colors used on any sign are encouraged to relate in harmony to the building color and architecture.

## **2. Illumination.**

- a. Externally lit signs shall be illuminated only with steady, stationary, shielded light sources directed solely onto the sign without causing glare. Sign illumination shall be simple in form and should not clutter the building or structure. All light sources should shine down in order to protect the night sky;
- b. Continuous lights which flash or move in any manner which poses a hazard to the public are prohibited;
- c. Internal illumination is permitted.

## **B. Commercial and Industrial Zones.**

### **1. Total Sign Area.**

- a. The total maximum area of signs (for a property shall allow each occupant or tenant a minimum sign area of sixteen (16) square feet;
- b. Maximum sizes and heights of allowed signage vary by Sign Zone.

### **2. Wall Signs.**

- a. The total area of wall signs on the exterior front surface and each side and rear surface of a building shall not exceed ten (10) percent of the vertical surface of the building or one hundred (100) square feet, whichever is less, provided that every occupant is allowed a minimum sign of sixteen (16) square feet except for theater marquee signs which may be up to 175 square feet;
- b. If a mural incorporates an advertising message into its design, the area of the advertising message shall be considered a wall sign;
- c. No wall sign may obscure architectural details of the building; nor cover doors, windows, or other integral elements of the façade.

### **3. Projecting Signs.** Each building may have only one projecting sign per entrance, unless more have been approved in conjunction with an overall sign plan for a multi-tenant building. Projecting signs shall meet the following conditions:

- a. The top of any projecting sign shall be no higher than twenty (20) feet above street grade, or the roof line of the building the sign is attached to, whichever is lower, and shall maintain a clearance of at least eight (8) feet from ground level and fifteen (15) feet above driveways or alleys;
- b. Projecting signs shall not extend more than four (4) feet from the building wall and may not exceed sixteen (16) square feet in area.

#### 4. Freestanding Signs.

a. One on-site freestanding sign per primary building or multi-business complex is permitted provided the sign meets the following requirements by Sign Zone:

b. One off-site sign is allowed in commercial zones per lot except in the B-3 Zoning District.

##### A. Downton Business District (B-3) Zone:

1. No freestanding sign shall exceed thirty-two (32) square feet;
2. The top of any freestanding sign shall be no higher than twenty (20) feet above street grade;
3. The sign shall be erected on or within the subject property.

##### B. Hart Street Sign Zone:

1. No freestanding sign shall exceed two hundred (200) square feet per sign face;
2. The top of any freestanding sign shall be no higher than one hundred (100) feet above street grade;

##### C. Fort Street Sign Zone:

1. No freestanding sign shall exceed sixty four (64) square feet per sign face;
2. The top of any freestanding sign shall be no higher than the height of the structural building.

##### D. North and South Main.

1. No freestanding sign shall exceed sixty four (64) square feet per sign face;
2. The top of any freestanding sign shall be no higher than one and one-half (1 ½) times the height of the structural building not to exceed thirty five feet.

##### E. All Other including Residential:

###### 1. Commercial signs on property zoned business or industrial:

- a. No freestanding sign shall exceed sixty four (64) square feet per sign face;
- b. The top of any freestanding sign shall be no higher than one and one-half (1 ½) times the height of the structural building not to exceed thirty five feet.
- c. If adjacent to residential property, illumination will only be allowed with Planning and Zoning Commission permission.

2. Signage on residential zoned property:

- a. Allowed for temporary purposes only, including yard sales, political expression and may not exceed 36 square feet per sign face and may not be illuminated.
- b. The sign shall be erected on or within the subject property except temporary directional signage may be placed with other property owner's permission to direct traffic to subject property for a yard sale.
- c. The sign shall be removed immediately following the event.

**5. Portable Signs.**

- a. Portable Signs shall not exceed four (4) feet in height or three (3) feet in width.
- b. Portable Signs are only allowed in Commercial/Business Zoning Districts.
- c. Portable Signs shall not be located so as to obstruct vehicular traffic, or visibility for vehicles at intersections, and the clear space for pedestrian passage shall not be reduced to less than three (3) feet. Repeated violations of placing signage obstructing pedestrian walkways or when closed may be caused to suspend a business' permission to display such signs.
- d. Portable Signs shall be weighted or secured in some manner as to prevent them from being moved or blown over by the wind.
- e. Portable Signs shall be displayed **during business hours only** and be stored inside the premises when the business is closed.

**6. Changeable Copy Signs.**

- a. One changeable copy sign is allowed per business or multi-tenant building in the B-1, B-2, B-3 and Industrial zones.
- b. A changeable copy sign may be erected as a freestanding, wall or projecting sign, but may not exceed fifty percent (50%) of the allowed area of such sign and shall meet all other conditions set forth under the chosen sign type. Theater marquee signs are exempt from this provision. Messages alternating on such signs may not change more than once per three (3) seconds.

**7. Non-Temporary Banners.**

Temporary banners meeting the requirements of Section 7 are exempt.

- a. Non-temporary banners are allowed in the B-1, B-2, B-3 and I zones.
- b. Banners shall be located at least twenty (20) feet from the edge of the roadway.
- c. Banners shall be securely fastened against a building to avoid being moved by the wind.



d. The area of any single banner shall not exceed twenty (20) square feet, and the total area of all banners shall not exceed forty (40) square feet.

**8. Pennants.** (see also the definition of streamers, which are prohibited):

a. Pennants shall meet all of the requirements for a projecting sign;

b. No more than one pennant shall be erected for every ten (10) lineal feet of building frontage.

**9. Kiosks.** The planning and Zoning Commission shall have the authority to permit erection of kiosks by the City or by nonprofit community organizations representing a large number of retail businesses. Such kiosks should provide community and visitor information services of broad interest and a current directory of retail businesses with a location map. No more than one such kiosk may be placed within the boundaries of Business (B-1, B-2 or B-3) Zones.

**C. Multi-Tenant Buildings and Multi-Business Complexes.**

A sign plan is required for all new multi-tenant buildings and multi-business complexes. The plan shall indicate size and location of all projecting, wall, freestanding, directory, and other signs. Only one freestanding sign and one directory sign is allowed per multi-tenant building or multi-business complex. Individual tenants of a multi-tenant building or multi-business complex shall subsequently receive permits for their individual signs, which shall conform to the overall sign plan.

1. One on-site directory sign is permitted per building or complex that includes three (3) or more businesses, provided the sign meets the following requirements.

a. Such sign does not exceed four (4) square feet per business and fifty (50) square feet total.

b. Such sign may be either a wall sign or freestanding sign. However, the directory sign may not be freestanding if another freestanding sign already exists on the premises.

**D. Residential Subdivisions.**

1. One identification sign per multi-family dwelling or mobile home park is permitted, provided such sign does not exceed twenty (20) square feet in area and uses only external illumination.

2. One on-site identification sign, which may include, but is not limited to, names of contractor, subcontractors, and financial institutions involved in the construction of a project, during the first year of construction of a new residential project, condominium project or subdivision, provided such sign does not exceed thirty-two (32) square feet in area per face and is unlighted, is permitted.

3. One identification sign per public or semi-public use, provided such sign does not exceed thirty-two (32) square feet in area and has only external illumination, is permitted.

4. Home Occupation signage in residential districts is regulated in Article 21 Home Occupations.

## **Section 11. ABATEMENT OR REMOVAL:**

### **A. Abatement or Removal of Signs.**

1. If, upon inspection, the Building Inspector or other designated official determines a sign within the City limits of Buffalo to be unsafe, un-maintained or abandoned, the designated official may issue a written order to the owner of the sign and/or occupant of the premises stating the nature of the violation and requiring them to repair or remove the sign within ten (10) working days after receipt of notice from the City. In cases of emergency, the designated official may cause the immediate removal of a dangerous or defective sign. Signs removed in this manner shall present an imminent hazard to the public safety.
2. The designated official may cause the removal of an illegal sign for failure to comply with the written orders of removal or repair under the procedures and authority of this Ordinance. Violators of any provision of this Ordinance shall be required to remove the non-compliant sign, or be subject to a fine as specified in this Chapter.
3. The owner of a sign removed under the provisions of this Section shall be billed a minimum of \$200 or the cost of such removal whichever is greater.

## **Section 12. VARIANCE PROCEDURE:**

### **A. Application and Fee Required:**

1. Any person, business or organization desiring to locate, construct, substantially alter or otherwise place any sign which does not conform to the provisions of this chapter may first make application to the Planning and Zoning Commission for a variance to locate, construct, substantially alter or otherwise place such a sign.
2. The application shall be filed with the Planning Director, accompanied by the appropriate fee established by the City Council and by a drawing or sketch in sufficient detail to determine the location and type of construction for the proposed sign and a letter of justification.
3. Upon receipt of a completed application accompanied by the requisite fee(s), the Planning and Zoning Commission, shall hold a public hearing and vote to recommend to approve or to deny said variance to the City Council within thirty (30) days of receipt thereof. The City Council will make a final determination on the variance at their next regularly scheduled meeting.

### **B. Conditions of Variances.**

1. The Planning and Zoning Commission may recommend and City Council may impose such conditions or requirements in a variance as are necessary in that board's judgement to protect the overall character of the community and to achieve the fundamental purposes of this chapter. A violation of such conditions or requirements shall constitute a violation of this chapter.
2. If a variance is granted and the sign so authorized is not substantially under construction within six (6) months of the date of approval of the variance, the variance shall lapse and become of no force or effect.

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## **Section 13. VIOLATIONS AND PENALTIES:**

1. Wherever by the provisions of this chapter the performance of any act is required or the performance of any act is prohibited, or wherever any regulation, dimension or limitation is imposed on the location, design or use of any sign, a failure to comply with the provisions of this chapter shall constitute a violation of this chapter.

2. The City Council or duly authorized responsible official may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, relocation, alteration, repair or use of any sign, and to restrain, correct or abate such violation. Every day on which a violation exists shall constitute a separate violation and a separate offense. The penalty for each offense shall be according to General Penalty 14-13 as outlined for Municipal Court. (RO 1383 7/16)

## **ARTICLE 23: HOME OCCUPATIONS**

**Section 1. Purpose** The standards of this Section are designed to protect and maintain the character of residential areas while recognizing that certain professional and trade activities may, on a limited scale, with no physical outside evidence of a business use, be acceptable accessory uses in residential dwellings. These activities are subordinate to the right of surrounding residents to enjoy the use of their property for residential purposes and shall be as permitted below in the R-1 and R-3 districts.

### **Section 2. Permits & Restrictions**

**A.** Minor Home Occupations require approval of the P & Z Staff. Major Home Occupations require approval of a Conditional Use Permit by the P & Z Commission at a public hearing.

**B.** Minor Home Occupations are permitted in all residential zoning districts. Major Home Occupations are only permitted in the R-2 and R-3 residential zoning districts.

**C.** The applicant for the Home Occupation shall live on the premises and shall either be the owner of the residence, have some controlling interest in the property or have the notarized, written consent and signature of the property owner or agent, which allows the home occupation to be conducted on the premises.

**D.** Home Occupations may only be conducted after approval from either the staff or the Commission. Approval for Home Occupations may only be granted if the following items have been met:

1. Home Occupation application conforms to the provisions of this ordinance.
2. Conditional Use Permit application conforms to the provisions of this ordinance.
3. Home Occupation will not alter the residential nature of the home or neighborhood.

**E.** Conditional Use Permits for Home Occupations require an application fee. (See Fee Schedule below Table of Contents).

**F.** Violations. If it is determined by inspection or public complaint that the operation of a Home Occupation is in violation of any provision of this ordinance or the Conditional Use Permit, action may be taken to revoke the Conditional Use Permit through City Council procedures. A violator may also be subject to legal sanctions.

### **Section 3. General Guidelines for Minor and Major Home Occupations**

**A.** No alterations of a property or structures shall be made to accommodate a Home Occupation, which in any way changes the residential character and nature of that property and its buildings.

**B.** The traffic and parking generated by a Home Occupation shall not increase the volumes of those normally expected in a residential neighborhood. Deliveries to and from the Home Occupation shall not require the use of vehicles other than standard USPS, Fed-Ex, U.P.S. or similar vehicles. Deliveries by semi-tractor-trailer rigs are not permitted, nor shall the Home Occupation operator make use of these vehicles at the residence for any reason.

**C.** Outdoor storage or display of goods/equipment is not permitted for a Home Occupation.

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- D. The sale or accumulation of salvage is not permitted as a Home Occupation.
- E. No flammable/explosive/hazardous products and/or materials deemed inappropriate for a residential use by City, State or other governmental departments shall be permitted as a part of a Home Occupation.
- F. No activity shall be allowed which interferes with wireless telecommunications transmissions or reception in the area or creates any offensive noise, vibration, smoke, dust, odor, heat or glare.
- G. The sale of merchandise shall be limited to items normally found in a residential dwelling as permitted in Sect. 4 & 5 below.
- H. No external evidence of an activity that creates a public nuisance will be permitted.
- I. No heavy equipment shall be installed or used except those normally used in residential homes.
- J. Clients or students are permitted on the premises only between 8 a.m. and 8 p.m.

**Section 4. Standards and Regulations for Minor Home Occupations**

A. Minor Home Occupations (MHO) shall be conducted entirely within the principal dwelling. Exceptions may be approved by staff for outside activities which create no public nuisance.

B. Only persons residing on the premises shall be employed in any MHO.

C. No more than 25% of the home floor area shall be devoted to the MHO and no accessory buildings shall be used.

D. Storage shall be totally enclosed within the Home Occupation floor area allowed. A site plan must be approved by staff.

E. No signs or other indications of a MHO shall be permitted on the premises.

F. Instruction of students shall be limited to 3 pupils at a time for a maximum of 6 per day.

G. A MHO shall not generate the need for additional parking on the premises.

**H. Permitted Minor Home Occupations (MHO). (*Permitted in all residential zoning districts*)**

1. Private professional office which shall not be open to the general public. All meetings with a client shall be by appointment only, and only one client shall be allowed on the premises at any given time for a maximum of six/day.

2. Medical offices are permitted for personal use but not for the practice of the profession, except for an emergency.

3. Small home crafts and workshops or studios for an artist, photographer, writer, composer, dressmaker, tailor, typist or computer programmer (some light carpentry or light welding incidental to the craft or art is acceptable). Such home workshops or studios shall not be open to the general public. Meetings with a client shall be by appointment only, and only one client shall be allowed on the premises at any given time for a maximum of 6 per day.

4. Instruction in music, arts, crafts, dance and tutoring to no more than 3 pupils at a time for a maximum of 9 per day.

5. Mobile repair service conducted at the client's site (small appliance, computer and electronics). No exception for outside activity or storage is permitted.

6. Other uses that meet the intent and purpose of this section.

**Section 5. Standards and Regulations for Major Home Occupations**

A. A site and floor plan must be approved by the P & Z Commission at a Public Hearing prior to approval.

B. The business shall be conducted entirely within enclosed structures. Exceptions may be granted by the Commission for outside activities that do not create a public nuisance.

C. No more than 1 worker, plus residence inhabitants shall be on the premises at one time to conduct a major home occupation.

D. No more than 25% of all structures shall be devoted to the major home occupation, including storage and shall be wholly enclosed inside a structure. Accessory building(s) may be used for a major Home Occupation if approved by the Commission.

E. Instruction of students shall be limited to not more than 3 pupils at a time for a maximum of 12 per day, or as determined by the Commission for the Conditional Use Permit.

F. Major home occupations are subject to inspection by City officials.

**G. Permitted Major Home Occupations.** (Permitted in R-2 & R-3 Residential Zoning Districts)

1. Any use permitted in the Minor Home Occupations.
2. Group Day Care Homes for Children are limited to 12 children and one employee and they are not subject to restricted hours of operation due to the nature of the business.
3. Group Day Care Homes for Adults are limited to 6 adults and one employee and they are not subject to restricted hours of operation due to the nature of the business.
4. Small appliance, computer and electronics repair. No exception for outside activity or storage is permitted.
5. Small engine repair conducted at customer's site. No outside activity or storage is permitted.
6. Retail photo developing as a mail order service.
7. Other uses that meet the intent and purpose of this section.

**Section 6. Prohibited Minor and Major Home Occupations.** *The following uses, by nature of the investments or operations involved, have a pronounced tendency once started, to rapidly increase beyond the limits intended for Home Occupations, and thereby impair the use and value of a residential zoning district. Therefore, the uses specified below shall not be permitted as either Minor or Major Home Occupations:*

1. Antique, furniture or gift shops.
2. Beauty shop, barber shop, body piercing or tattoo shops.
3. On site small engine repair shops.
4. Welding (Non-incident to the Home Occupation).
5. Pet shops, kennels, animal hospitals or other related pet businesses.
6. Funeral-homes, mortuaries, crematories and other related services.
7. Restaurants, Bars, lounges or similar types of businesses.
8. Merchandise/equipment rental businesses.
9. Taxi-cab service and/or vehicles for hire.
10. Tow truck service or storage of towed vehicles.
11. Construction contractor involving parking/storage of special purpose vehicles.
12. Motor vehicle repair, body/frame repair, painting or sanding, rebuilding/reconditioning, cleaning or undercoating.
13. The sale of fuel, oil or other products for propulsion or lubrication of motor vehicles.
14. Workshops for heavy carpentry, household furniture or cabinet making.
15. Furniture Refinishing and/or Painting
16. Professional offices open to the public where client consultation is practiced.
17. Any use listed as a Commercial or Industrial permitted use.
18. Any other uses similar to the above that are detrimental to the character and nature of a residential zoning district.

**ARTICLE 24: NON-CONFORMING USES**

**Section 1. Purpose** The purpose of this article is to provide for the regulation of non-conforming uses and to specify those circumstances under which they shall be allowed to continue as legal non-conforming uses.

**Section 2. Authority to Continue** Any use that existed lawfully prior to the effective date of this ordinance or any lawful use that has become non-conforming upon the adoption of this ordinance or any amendment thereto, may continue to operate as that same use, as it did prior to becoming non-conforming, subject to the rules, regulations and provisions of this article.

**Section 3. Restrictions** *Any non-conforming use, except residences, that does not conform with the regulations of the zoning district in which it is located, shall be subject to the following:*

**A. Repairs and Alterations.** Ordinary cosmetic repairs may be made to a building or structure devoted to or designed for a use not permitted in the zoning district in which it is located. No structural repairs or alterations shall be made in or to such building or structure, except those required by law or to alter the design and use of the building or structure to conform to the permitted use regulations of the zoning district in which it is located.

**B. Additions and Enlargements.** A building or structure devoted to or designed for a use not permitted in the zoning district in which it is located, shall not have additions or enlargements made to it in any way other than to bring such building or structure into compliance with the permitted use(s) of the zoning district in which it is located.

**C. Restoration as a Result of Damages.** A building or structure devoted to or designed for a use not permitted in the zoning district in which it is located, that is damaged or destroyed by any means, and where the cost of the repairs exceed 50% or more of its replacement value, shall not be restored except if such restoration results in a building or structure devoted to or designed for a use that conforms to the regulations of the zoning district in which it is located.

**D. Discontinuance of a Non-Conforming Use.** In the event that a non-conforming use of a building, structure, premises or parts thereof, is discontinued for any reason for a minimum of 6 months, and such non-conforming use is changed to or replaced by a use conforming to the zoning district in which it is located, such building, structure, premises or parts thereof shall not thereafter be used or occupied by a non-conforming use, even though the building, structure, premises or parts thereof may have been originally constructed for the prior non-conforming use.

**E. Vacant Non-Conforming Use.** In the event the building, structure or premises of a non-conforming use have sat vacant for a minimum of 6 months, any use brought into said building, structure or premises shall be a use conforming to the regulations of the zoning district in which it is located and, all requirements of this Zoning Ordinance shall be met before the new permitted use is allowed to operate, including the most current building guidelines as set forth in this and other ordinances.

## **ARTICLE-25: PENALTIES FOR NON-COMPLIANCE**

**Section 1. Duty to Enforce** It is the duty of every official of the City of Buffalo to enforce the provisions of this Ordinance.

**Section 2. Inspections** The Building Inspector, Fire Marshall, Code Enforcement Officers, P & Z Staff and any other duly authorized City staff shall inspect all buildings, structures and land to determine compliance with the rules, regulations and provisions of this and other City ordinances.

### **Section 3. Penalties for Non-Compliance**

**A.** Any person or party convicted of violating any of the rules, regulations, and/or provisions of this Ordinance shall be fined in accordance with the **General Penalty 14-13** as outlined for **Municipal Court**.

**B.** In the event of a violation of this Ordinance, the City may impose and collect, and the holder of a Building, Cell Tower, RAES or Sign Permit shall be subject to the penalties as set forth in 'A' above and 'C' below.

**C.** Notwithstanding anything in this Ordinance, the holder of any of the above mentioned Permits may not use the payment of fines, liquidated damages, or other penalties to evade or avoid compliance with this Ordinance or any Article or Section of this Ordinance. Any attempt to do so shall subject the Permit holder to termination and revocation of the Permit. The City may also seek injunctive relief to prevent the continued violation of this Ordinance, without limiting other remedies available to the City.(R.O. 1351 10/2011)



