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**ARTICLE TWELVE
ADMINISTRATION AND PROCEDURES**

12-1 Purpose

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

12-2 Zoning Enforcement Officer

- A. Role Filled by Building Official: The role of the Zoning Enforcement Officer shall be filled by the City of Plattsburgh Building Official.
- B. Powers and Duties: The Zoning Enforcement Officer shall exercise the following powers and duties:
 - 1. The Zoning Enforcement Officer or the officer's designees shall exercise all enforcement powers, including, but not limited to, investigation of complaints of zoning violations, issuance of notices to violators, and preparation and submission to the City Attorney reports of those zoning violations which continue unabated after exhaustion of reasonable administrative remedies toward their abatement, for such legal action as the facts of each report may require.
 - 2. The Zoning Enforcement Officer shall determine the use type for any use.
 - 3. In all cases in which the city commences court action, the Zoning Enforcement Officer shall cooperate with the City Attorney by performing such additional investigative work as the City Attorney shall require.
 - 4. The Zoning Enforcement Officer or the officer's designee shall attend the meetings of the Planning Commission and the Board of Adjustment as requested by those bodies, shall investigate and review all cases presented to the Board of Adjustment, and shall advise that body on those cases upon request.
 - 5. If the City Attorney, after analysis of the report, institutes legal proceedings, the Zoning Enforcement Officer will cooperate fully with the legal department in the perfecting of such proceedings.

12-3 Site Plan Review Procedure

- A. Purpose: The site plan review procedure provides for the administrative review in addition to plan review required by other sections of the Plattsburgh Municipal Code of projects that have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.
- B. Administration: The Building Official shall review, evaluate, and act on all site plans submitted pursuant to this procedure. Site plan actions of the Building Official related to enforcement of the Zoning Ordinance may be appealed to the Board of Adjustment. All appeals regarding actions of the Building Official unrelated to the Zoning Ordinance may be appealed to the Planning Commission and City Council.
- C. Uses Requiring Site Plan Review: The following selected uses shall follow the site plan review procedure prior to the issuance of a building permit, unless they are otherwise subject to a special use permit procedure for specific zoning districts:
 - 1. Multiple-family residential developments with 20 or more dwelling units.

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2. Educational facilities.
 3. Automotive washing.
 4. Automotive sales.
 5. Any use including drive-in services.
 6. Any commercial, industrial, or office building providing over 15,000 square feet in building area.
 7. Any industrial use adjacent to a residential zoning district.
- D. Application Requirements: An application for a site plan review may be filed by the owners of a property or the owners' authorized agent with the Building Official. The application shall include the following information:
1. Name and address of the applicant.
 2. Owner, address, and legal description of the property.
 3. A description of the nature and operating characteristics of the proposed use.
 4. A site plan, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
 - a. The date, scale, north point, title, name of owner, and name of person preparing the site plan.
 - b. The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.
 - c. The location, size, and use of proposed and existing structures on the site.
 - d. The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping, and lighting.
 - e. Location of any major site feature, including drainage and contours at no greater than five foot intervals.
 - f. Any other information that may be required for review by the Building Official.
- E. Administrative Action and Appeal: The Building Official must act upon each complete application within ten working days of filing. An applicant may appeal a zoning determination made as part of the site plan review to the Board of Adjustment within ten days of the action. The Board of Adjustment shall consider the appeal at the first available meeting after the filing of the appeal.
- F. Review and Evaluation:
1. The Building Official shall review and approve the site plan based on the criteria established in Table 12-1 and conformance with applicable regulations in this Zoning Ordinance.
 2. The Building Official shall make the following findings before approval of the site plan:
 - a. The proposed development, together with any necessary modifications, is compatible with the criteria established in Table 12-1.
 - b. Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.
 - c. The site plan conforms to the Zoning Ordinance.

- G. Modification of Site Plan: The Building Official may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than base district regulations and may include, but not be limited to, additional landscaping or screening, installation of erosion control measures, improvement of access or circulation, rearrangement of structures on the site, or other modifications deemed necessary to protect the public health, safety, or welfare.
- H. Term and Modification of Approval:
 - 1. A site plan approval shall become void two years after the date of approval, unless the applicant receives a building permit and diligently carries out development prior to the expiration of this period.
 - 2. The Building Official may approve an application to modify a previously approved site plan if he/she determines that the modification does not affect findings related to the criteria set forth in Table 12-1.
 - 3. The Building Official may revoke a site plan approval if he/she determines that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Board of Adjustment.
 - 4. Approval to Run with Land: An approval pursuant to this section shall run with the land until the expiration date of such approval.

12-4 Special Use Permit Procedure

- A. Purpose: The special use permit procedure provides for public review and discretionary City Council approval for uses within zoning districts which have unusual site development or operating characteristics that could adversely affect surrounding properties.
- B. Administration: The Planning Commission shall review and evaluate each application and transmit its recommendation to the City Council. The City Council shall review, evaluate, and act upon all applications submitted pursuant to this procedure.
- C. Application Requirements: An application for a special use permit may be filed by the owners of a property or the owners' authorized agent with the Building Official. The application shall include the following information:
 - 1. Name and address of the applicant.
 - 2. Owner, address, and legal description of the property.
 - 3. A description of the nature and operating characteristics of the proposed use.
 - 4. Any graphic information, including site plans, elevations, or other drawings necessary to describe the proposed use to approving agencies.
- D. Approval Process:
 - 1. The Planning Commission, following proper notice, shall hold a public hearing on each special use permit and, following such public hearing, shall recommend action to the City Council
 - 2. The City Council, after publication and public hearing, shall act on the special use permit. If the Planning Commission recommends denial of the special use permit, a majority plus one of the City Council is required for approval. The City Council may apply any reasonable conditions to the approval of the permit.

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- E. Criteria for Review: The Planning Commission and the City Council shall review and approve the site plan based on the criteria established in Table 12-1 and conformance with applicable regulations in this Zoning Ordinance.

TABLE 12.1: CRITERIA FOR SITE PLAN REVIEW AND SPECIAL USE PERMITS			
CRITERIA		APPLICATION TO	
		Site Plan Review	Special Use Permit
Land Use Compatibility Development Density	Site area per unit or floor area ratio should be similar to surrounding uses if not separated by major natural or artificial features		X
Height and Scale Height and Bulk	Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations.	X	X
Setbacks	Development should respect pre-existing setbacks in surrounding area. Variations should be justified by site or operating characteristics.	X	X
Building Coverage	Building coverage should be similar to that of surrounding development if possible. Higher coverage should be mitigated by landscaping or site amenities.	X	X
Site Development Frontage	Project frontage along a street should be similar to lot width.	X	X
Parking and Internal Circulation	Parking should serve all structures with minimal conflicts between pedestrians and vehicles. All structures must be accessible to public safety vehicles. Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points.	X X X	X X X
Landscaping	Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainage ways should be preserved.	X	X
Building Design	Architectural design and building materials should be compatible with surrounding areas or highly visible locations.		X
Operating Characteristics Traffic Capacity	Project should not reduce the existing level of traffic service on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations.	X	X
External Traffic Effects	Project design should direct non-residential traffic away from residential areas.	X	X
Operating Hours	Projects with long operating hours must minimize effects on surrounding residential areas.	X	X
Outside Storage	Outside storage areas must be screened from surrounding streets and less intensive land uses.	X	X
Public Facilities Sanitary Waste Disposal	Developments within 500 feet of a public sanitary sewer must connect to sewer system. Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare. Sanitary sewer must have adequate capacity to serve development.	X X	X X
Storm Water Management	Development should handle storm water adequately to prevent overloading of public storm water management system. Development should not inhibit development of other properties. Development should not increase probability of erosion, flooding, landslides, or other run-off related effects.	X X X	X X X
Utilities	Project must be served by utilities.	X	X
Comprehensive Plan	Projects should be consistent with the comprehensive development plan of Plattsmouth.		X

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- F. Scope of Approval: The City Council may, at its discretion, apply a special use permit to a specific owner or applicant. The City Council may establish special site development or operational regulations as a condition for approval of a special use permit.
- G. Lapse and Revocation of Permit:
 - 1. A special use permit shall become void two years after its effective date if the applicant has not carried out development or occupancy during that period.
 - 2. The City Council may revoke a special use permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.
- H. Previously Approved Permits: Any special use approved under regulations in effect before the effective date of this ordinance shall be considered to have a valid special use permit; subject to requirements imposed at the time of its approval.

12-5 Amendment Procedure

- A. Purpose: The amendment procedures describe the methods by which changes may be made in the text of the Zoning Ordinance (text amendment) and/or the official boundaries of zoning districts (rezoning).
- B. Initiation of Amendments:
 - 1. Text amendments may be initiated by the Planning Commission or City Council.
 - 2. Rezoning or changes to the zoning map may be initiated by a property owner or authorized agent, the Planning Commission, or the City Council.
- C. Rezoning Application Requirements: An application for a rezoning shall be filed with the Building Official. The application shall include the following information:
 - 1. Name and address of the applicant.
 - 2. Owner, address, and legal description of the property.
 - 3. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.
 - 4. Any graphic information, including site plans, elevations, or other drawings, necessary to describe the proposed use to approving agencies.
- D. Amendment Process:
 - 1. The Planning Commission, following ten days notice, shall hold a public hearing on each proposed text or rezoning and, following such public hearing, shall recommend action to the City Council.
 - 2. The City Council, after publication and public hearing, shall act on the proposed amendment: If the Planning Commission recommends denial of the amendment, a majority plus one of the City Council is required for approval.

- E. Required Notice and Publication: Prior to consideration of amending, supplementing, changing, modifying, or repealing this ordinance by the governing body, notice of public hearings shall be provided as follows:
1. Notice: A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than 18 inches in height and 24 inches in width with a white background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change such posted notice prior to such hearing.
 2. Publication: At least ten days before the date of hearing, the City Clerk shall have published in a daily newspaper having a general circulation in the City of Plattsmouth a notice of the time, place, and subject matter of such hearing.

12-6 Extension of the Extra-Territorial Jurisdiction

Upon the automatic extension of the two-mile extra-territorial jurisdiction due to annexation, the City Council with the recommendation of the Planning Commission, shall zone properties within the newly established jurisdiction concurrent with adoption of the annexation ordinance. The zoning shall consider the Comprehensive Development Plan of the City of Plattsmouth and the present use of the land.

12-7 Building Permits and Certificates of Zoning Compliance

- A. Administration and Enforcement:
1. The Building Official shall administer and enforce this ordinance. The City Council may direct other persons to assist him/her.
 2. If the Building Official shall find that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.
- B. Building Permits Required: No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore issued by the administrative official. No building permit shall be issued by the administrative official except in conformity with the provisions of this ordinance, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by this ordinance.
- C. Application for Building Permit:
1. All applications for building permits shall include plans if applicable in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this ordinance.

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2. One copy of the plans shall be returned to the applicant by the administrative official, after he/she shall have marked such copy either as approved or disapproved and attested to same by his/her signature on such copy. One copy of the plans, similarly marked, shall be retained by the administrative official.
- D. Certificates of Zoning Compliance for New, Altered or Non-Conforming Uses: It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the administrative official stating that the proposed use of the building or land conforms to the requirements of this ordinance.
- E. Expiration of Building Permit:
1. If the work described in any building permit has not begun within 180 days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the administrative official, and written notice thereof shall be given to the persons affected.
 2. If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be cancelled by the administrative official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.
 3. The expiration date of a building permit may be established for a period longer than two years if established at the time that such permit is issued by the city. The Building Official may, at his/her discretion extend the expiration period of the building permit.
- F. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance: Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this ordinance, and punishable as provided by section hereof.

12-8 Schedule of Fees, Charges, and Expenses

- A. The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this ordinance.
- B. The schedule of fees shall be posted in the office of the administrative official, and may be altered or amended only by the City Council.
- C. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

12-9 Board of Adjustment

- A. Establishment and Procedure:
 1. A Board of Adjustment is hereby established to provide relief in situations of hardship or to hear appeals as provided by this section. A property owner may appeal an administrative decision, notice, order, or interpretation of the Building Official if he/she claims that such decision incorrectly interprets or applies the provisions of this ordinance.

2. Appeals shall be made to the Board of Adjustment through the office of the City Clerk in written form as determined by the Clerk.
- B. Rules and Regulations:
1. The Board of Adjustment shall adopt rules and regulations in accordance with this ordinance and the laws of the State of Nebraska regarding zoning for first-class cities as amended from time to time.
 2. The concurring vote of four out of five members of such board as so composed shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variation in such ordinance.
- C. Proceedings of the Board of Adjustment: The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings and records shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact.

12-10 Powers and Duties of the Board of Adjustment

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

- A. Administrative Review: To hear and decide appeals where it is alleged there is error in any order, requirement, decisions or determination made by the Building Official in the enforcement of this ordinance.
- B. Variances - Conditions Governing Applications – Procedures: To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this resolution would result in unnecessary hardship and so that the spirit or the resolution shall be observed and substantial justice done. A variance from the terms of this resolution shall not be granted by the Board of Adjustment unless and until:
1. A written application for a variance is submitted demonstrating:
 - a. That strict application of the zoning ordinance will produce undue hardship.
 - b. That such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
 - c. That the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
 - d. That granting the variance requested is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.
 2. Notice of public hearing shall be given.
 3. A public hearing shall be held. Any party may appear in person, or by agent or by attorney.
 4. The Board of Adjustment shall make findings that the requirements of Section 12-10 (b)(5) have been met by the applicant for a variance.
 5. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance will make possible the reasonable use of the land, building, or structure.

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6. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this resolution, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- C. Conditions for Grant of Variance:
1. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this resolution. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this resolution and punishable under Section 12-15 of this ordinance.
 2. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this resolution in the district involved, or any use expressly or by implication prohibited by the terms of this resolution in said district.
 3. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- D. Board has Powers of Administrative Official on Appeals; Reversing Decisions of Administrative Official: In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this resolution, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.
- E. The concurring vote of four members of the Board shall be necessary to reverse any order, requirements, decision, or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

12-11 Appeals from the Board of Adjustment

Any person or persons, or any board, taxpayer, department, board or bureau of the county aggrieved by any decision of the Board of Adjustment may seek review of such decision by the District Court for the County in the manner provided by the laws of the State and particularly by 19-912 R.R.S. 1943 (Reissue 1977), and amendments thereto.

12-12 Duties of Building Official, Board of Adjustment, City Council, and Courts on Matters of Appeal

- A. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the administrative official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the administrative official, and that recourse from the decisions of Board of Adjustment shall be to the courts as provided by law.
- B. Under this ordinance, the City Council shall have only the duties:
1. of considering and adopting or rejecting proposed amendments or permits, or the repeal of this ordinance as provided by law, and
 2. of establishing a schedule of fees and charges as stated in Section 12-8 of this ordinance.

12-13 Severability Clause

Should any section or provision of this resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

12-14 Complaints Regarding Violations

Whenever a violation of this resolution occurs, or is allowed to have occurred, any person may file a written complaint. Such complaints stating fully the causes and basis thereof shall be filed with the Building Official. He/she shall record properly such complaint immediately, investigate, and take action thereon as provided by this resolution.

12-15 Penalties for Violation

Any person who violates any of the prohibitions or provisions of any article or section of this chapter shall be deemed guilty of a violation. Unless otherwise specified in the particular article or section for which the person stands convicted of violating, the penalty for such violation shall be in any amount not to exceed one hundred (\$100.00) dollars and/or imprisonment for any length of time not to exceed 30 days, at the discretion of the court. Every 24 hours in which a violation of this chapter continues shall be considered a separate and distinct violation (Ref. 16-246 RS Nebraska).