

ARTICLE XXXIV. Supplemental Site Development Regulations

§ 205-214. Purpose.

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

§ 205-215. Setback adjustments.

- A. Lots adjoining alleys. In calculating the depth of a required side or rear yard setback for a lot adjoining a dedicated public alley, ½ of the alley may be credited as a portion of the yard. However, no residential structure may be nearer than three feet to the near side of the alley.
- B. Exceptions to openness of required yards. Every part of a required yard shall be open and unobstructed from finished grade upward, except as specified herein.
 - (1) Architectural projections, including roofs which cover porches, enclosed porches, window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project three feet into a required yard.
 - (2) Terraces, patios, uncovered decks and ornamental features that have no structural element more than two feet above or below the adjacent ground level may project 10 feet into a required yard. However, all such projections must be set back at least three feet from an adjacent side lot line or 5 feet from any street property line.
 - (3) Terraces, patios, uncovered decks and ornamental features that have a structural element more than two feet above or below the adjacent ground level may project 10 feet into a required front, street side, or rear yard. However, all such projections must be set back at least 5 feet from any front or street side lot line. For the purposes of regulating setbacks, a deck that is partially or fully covered by an arbor, pergola, or similar shade providing feature shall be considered a covered deck.
 - (4) Paved driveways, interior sidewalks and pads may be located within a front yard, interior side yard or rear yard, but must be setback a minimum of one foot from the side lot line and three feet from the rear property line. On a corner lot, driveways or parking pads not providing access to a garage are not permitted within a required street side yard setback.
 - (5) Fire escapes, fireproof outside stairways and balconies opening to fire towers may project a maximum of three feet into required yards, provided that they do not obstruct the light and ventilation of adjacent buildings.
 - (6) For buildings constructed upon a front property line, a cornice may project into the public right-of-way. Maximum projection is the smaller of four feet or 5% of the right-of-way width.
 - (7) In commercial districts, a canopy may extend into a required front yard, provided that the canopy is set back at least five feet from the front property line, covers less than 15% of

the area of the required front yard and has a vertical clearance of at least eight feet six inches.

- (8) Lampposts with a maximum height of 10 feet and flagpoles up to maximum height of base district may be located within required yards, provided that they are set back at least five feet from property lines.
- (9) Accessibility improvements, such as ramps, elevators and lifts, may project a maximum of ten feet into any required setback, but not closer than three feet from any property line, per the following requirements:
 - (a) The exception is necessary to meet the special accessibility needs of a person with a physical handicap that impairs his or her ability to access the property in a situation where accessibility improvements cannot be addressed through the standard setback adjustments.
 - (b) Visual impacts of the accessibility improvements located within a required setback have been minimized.
 - (c) The accessibility improvements will not impair visibility within a required vision-clearance zone.

C. Building setback adjustments.

- (1) Setbacks on built-up blockfaces. These provisions apply if 40% or more of the buildings on that blockface have front yard setbacks different from those required for the specific district.
 - (a) If a building is to be built on a parcel of land within 100 feet of existing buildings on both sides, the minimum front yard shall be the mean setbacks of the adjacent buildings.
 - (b) If a building is to be built on a parcel of land within 100 feet of an existing building on one side only, the minimum front yard shall be the setback of the adjacent building.
 - (c) If a building is to be built on a parcel of land not within 100 feet of an existing building on either side, then the minimum front yard shall be the mean setback of all existing buildings on the blockface.
 - (d) No setback adjustment pursuant to this section shall create a required front yard setback more than five feet greater than that otherwise required by the applicable zoning district.
- (2) Corner lots. Required setbacks shall not reduce the buildable width of any corner lot to less than 24 feet. Appropriate setback adjustments shall be allowed to maintain this minimum width.

- D. Rear yard exceptions for residential uses. For the purpose of determining compliance with rear yard requirements on irregular lots used for residential purposes, the rear yard is measured as the average distance between the building line and the rear property line. However, the shortest distance between the principal building and any rear property line shall be no less than 60% of the rear yard required for the district.
- E. Double frontage lots. Residentially zoned double frontage lots on a major street and with no access to that street may have a twenty-five-foot minimum front yard setback along said street. All other double frontage lots must provide full front yard setbacks from each adjacent street.
- F. Antennas.
 - (1) Antennas which are accessory to a principal use and are designed to receive and transmit electromagnetic signals or to receive signals from satellites shall not be located within any front yard of the principal use.
 - (2) Such antennas shall be located no less than 15 feet from the property line of an adjacent property within a residential zoning district.
- G. Vision-clearance zones. No structure, including a fence, may obstruct vision between a height of thirty inches and ten feet on any corner lot within a vision-clearance zone, defined by a triangle with legs of 20 feet measured from the point at which the edge (or curb) of two intersecting streets (private or public) meet. No landscaping shall be planted in such area which will materially obstruct the view of drivers approaching the street intersection.

§ 205-216. Height adjustments.

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

- A. Vertical projections. Chimneys, cooling towers, building mechanical equipment, elevator bulkheads, fire towers, grain elevators, nonparabolic receiving antennas, tanks, solariums, steeples, penthouses not exceeding 25% of total roof area, flagpoles, stage towers or scenery lofts, and water towers may be built to any height in accordance with existing ordinances.
- B. Amateur radio towers and Federal Communication Commission pronouncements.
 - (1) Radio towers, antennas and other appurtenances operated by licensed amateur radio operators, where permitted and when, may not exceed 75 feet in height. This height has been determined by the city to reasonably accommodate amateur service communications, and further represents the minimum practicable regulation to accomplish legitimate municipal land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission.
 - (2) Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the City Council may grant a special use permit to a licensed amateur radio operator for a specific tower height that exceeds 75 feet. In determining whether to grant such permission, the City Council shall consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption), 101 FCC 2d (1985); codified at CFR Section 97.15(e).

(3) Such radio towers shall not be located within any front yard of the principal use.

C. Broadcast towers. Broadcast towers, when operated by a federally licensed commercial or nonprofit organization, may be built to any height in accordance with existing and future ordinances. This exception does not apply to radio towers, antennas and other appurtenances operated by licensed amateur radio operators.

D. Civic buildings. Buildings housing civic use types may be built to a maximum height of 75 feet. Such buildings located in residential districts shall be set back one foot in addition to required setbacks from each property line for each foot of height over the maximum height of the zoning district.

E. Wind energy conservation systems (WECS).

(1) The distance from all lot lines or any building or power line to any tower support base of a WECS shall be equal to the sum of the tower height and the diameter of the rotor. A reduction of this requirement may be granted as part of a special use permit approval if the Planning Commission finds that the reduction is consistent with public health, safety and welfare. No part of the WECS, including guy anchors, shall be closer than five feet from any lot line.

(2) The distance between the tower support bases of any two WECS shall be the minimum of five rotor lengths, determined by the size of the largest rotor. A reduction of this requirement may be granted as part of a special use permit approval if the Planning Commission finds that the reduction does not impede the operation of either WECS.

(3) The WECS operation shall not interfere with radio, television, computer or other electronic operations on adjacent properties.

(4) A fence six feet high with a locking gate shall be placed around any WECS tower base; or the tower climbing apparatus shall begin no lower than 12 feet above ground.

(5) The WECS is exempt from the height restrictions of the base district.

(6) The property owner shall have 6 months to complete decommissioning of the WECS if no electricity is generated for a continuous period of 12 months. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities down to 36 inches below grade. Disturbed earth shall be graded and re-seeded, unless the Planning Director approves the landowner's written request to maintain the access roads and/or not restore the land surface to a native state.

(7) Decibel levels for the WECS shall not exceed 60 decibels (dba) measured at the closest neighboring inhabited dwelling unit, except during short-term events such as utility outages and severe wind storms.

(8) Signage on a WECS visible from public right-of-way is prohibited, except the manufacturer's or installer's identification, appropriate warning signs, or owner identification.

- F. Special use permit. The City Council with the recommendation of the Planning Commission may grant an exception from the height limit for a zoning district as part of approval of a special use permit. The limit or extent of this exception shall be a specific part of the special use permit.
- G. Federal Aviation Administration rules. No structure may be built in any zoning district which exceeds the maximum height permitted under the rules of the Federal Aviation Administration. These rules describe the glide angles and operational patterns for any airport within the planning jurisdiction of the City of Papillion.

§ 205-217. Retaining walls.

- A. For any retaining wall visible from a public right-of-way, Residential Zoning District, or residential use; or any retaining wall abutting a property line, sidewalk, or trail; the following requirements shall apply:
 - (1) Maximum height. A single retaining wall shall not be more than five feet in height. Retaining walls may be used in series, provided that each five foot high wall is separated by a horizontal “shelf” of not less than the height of the lower wall to avoid placing the retaining wall on top of a 45° slip. The horizontal shelf shall be landscaped with plant materials to soften the image of the walls. Retaining walls located on property developed as single-family, two-family, or duplex are exempt from the maximum height requirement.
 - (2) Retaining walls in a landscaped buffer. When a retaining wall is located within a required landscape buffer at a property boundary:
 - (a) If the adjacent property is downhill from the retaining wall, the landscaped buffer shall be located between the retaining wall and the adjacent property.
 - (b) If the adjacent property is uphill from the retaining wall, the landscaped buffer shall be located between the back of the retaining wall and the adjacent property.
 - (3) Materials. Retaining walls shall be constructed of decorative masonry, stone, or simulated stone that is compatible in color, texture, size and scale to the materials used in the buildings on the same site.
 - (4) Pedestrian safety. Any retaining wall that exceeds four feet in height and is adjacent to a residential use, residential zoning district, public sidewalk or trail, public park, or civic use shall have a fence, handrail, or uninterrupted shrubbery of at least 36 inches in height at the top. Fencing rules for the district shall apply.

§ 205-218. Fence regulations.

- A. Location restriction. Unless otherwise provided by this chapter or other sections of the Papillion Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines, or tract outside the surveyed lot lines.
- B. Required openings. Unless otherwise provided by this chapter or other sections of the Papillion Municipal Code, any fence built on residential property within required front or street side yards shall contain openings constituting no less than 50% of the surface area of the fence;

except that any fence located behind the front building line within a street side yard may be opaque. On a double frontage lot, where the rear yard is adjacent to a major street, the fence may be opaque.

- C. Sight obstruction. No solid fence permitted or required by this chapter or other sections of the Papillion Municipal Code shall be built within a triangle formed by the adjacent side lines of two intersecting streets and a line connecting points 30 feet on each leg from their point of intersection; or in the case of corner lots, and only if the driveway on an adjacent lot is obstructed, no fence shall be allowed in a triangle formed by the adjacent side lot lines of two intersecting lot lines and a line connecting points 20 feet on the side lot line of the corner lot and 10 feet on the adjacent lot side lot line; or otherwise in any manner create a traffic hazard or obstruction to visibility. [Amended 12-3-1996 by Ord. No. 1231]
- D. Facing. The finished surfaces of any fence shall face toward adjacent properties and street frontage. Fence posts and supporting structure, when visible on one side and not the other or more visible on one side than the other, should face inward. The Planning Director may make a determination as to which side of a fence is the finished surface.
- E. Residential fences. Fences constructed for any residential use or in any residential zoning district are subject to the following provisions:
 - (1) Height: The maximum height of a fence within a required front yard setback shall be three feet. The maximum height for any fence outside of a required front yard shall be six feet provided that a sight obstruction is not caused by the placement of said fence. For double frontage lots where the rear yard is adjacent to a major street and the lot does not take direct access to the major street, the maximum height of a fence within the rear yard shall be six feet, as long as a sight obstruction at a street intersection is not created by the placement of said fence.
 - (2) Height exceptions for Primary and Secondary educational facilities and Park and Recreation Services. The maximum height of any fence installed as part of Primary educational facility, Secondary educational facility or Park and recreation use types within residential zoning districts shall be eight feet.
 - (3) Height exceptions for athletic surfaces or fields. The maximum height of fences installed for any residential use classified as multiple-family residential, condominium, townhouse residential, group residential, retirement residential, or for any non-residential use within residential zoning districts to enclose an athletic surface or field, such as a tennis court, baseball field, or soccer field, to protect spectators from balls or similar projectiles shall be twenty feet.
- F. Nonresidential fences. Fences constructed in any nonresidential zoning districts are subject to the following provisions:
 - (1) The maximum height of a fence for any permitted use in any nonresidential zoning district shall be eight feet, except that the maximum height of fences installed to enclose an athletic surface or field, such as a tennis court, baseball field, or softball field, to protect spectators from balls or similar projectiles shall be twenty feet.

(2) **(Reserved)**

- (3) Height adjustment. The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety and welfare of the residents of the City of Papillion.

G. Golf course fences. Fences shall not be permitted between a building line of the principal structure and a lot line that is adjacent to a municipal golf course, except that:

- (1) A pool-enclosure fence required in Subsection H of this section is permitted with the following requirements:

- (a) The fence must be set back a minimum of eight feet from the rear property line adjacent to the municipal golf course;
- (b) The fence shall be no less than 60% transparent;
- (c) The fence shall be designed to minimize sight obstruction for neighboring lots;
- (d) The fence shall be constructed of vertical rigid vinyl, wrought iron or other similar material approved by the Planning Director, of which no piece other than supporting posts shall exceed 1.5 inches in width and vertical openings shall be no less than three inches in width other than supporting posts which shall not exceed 4 inches in width; and
- (e) To qualify for a pool-enclosure fence along a municipal golf course, the swimming pool must be permanent in nature, in-ground with not more than 18 inches extending above ground (except that a patio or a deck that extends around the entire perimeter of the pool may be considered at grade), and have a pool surface area of not less than 200 square feet. Hot tubs and spas with covers are generally not considered a swimming pool. Swimming pools that do not meet these criteria cannot be granted a permit for a fence and therefore cannot be installed on a lot abutting a municipal golf course.

- (2) A fence is permitted for Lots 306-328, Eagle Hills and Lot 1, Eagle Hills Replat 2 with the following requirements:

- (a) The lot owner must provide, at his/her own expense, certification from a geotechnical engineer that the proposed fence placement and construction method will not adversely impact the stability of the bluff slope. Acceptance of the certification is at the discretion of the City Engineer or his/her designee;
- (b) The fence shall be no less than 60% transparent;
- (c) The fence shall be designed to minimize sight obstruction for neighboring lots; and;
- (d) The fence shall be constructed of vertical rigid vinyl, wrought iron or other similar material approved by the Planning Director, of which no piece shall exceed 1.5 inches in width other than supporting posts which shall not exceed 4 inches in width; and vertical openings shall be no less than three inches in width.

H. Swimming pools: enclosure. [Added 12-3-1996 by Ord. No. 1231; amended 10-6-1998 by Ord. No. 1275]

- (1) Every outdoor swimming pool or family pool shall be completely surrounded by a fence or wall not less than six feet in height, which shall be constructed as to not have openings, holes or gaps larger than four inches in any dimension except for doors and gates; and if a picket fence is erected or maintained, the horizontal dimension shall not exceed four inches. A dwelling house or accessory structure may be used as part of such enclosure. All gate and door openings through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.
- (2) All fences enclosing private, residential or family pools shall be constructed to conform to all other requirements of the city building code regulations.
- (3) This requirement shall be applicable to all new swimming pools or family pools hereinafter constructed other than indoor pools. All existing swimming pools shall be subject to these enclosure regulations when said existing pools are no longer considered a nonconforming use pursuant to Article XXXIX of this chapter.
- (4) No person in possession of land within the zoning jurisdiction of the City of Papillion, either as an owner, purchaser, lessee, tenant or licensee, upon which is situated a swimming pool or family pool having a minimum depth of 18 inches shall fail to provide or maintain such fence or wall as herein provided.
- (5) The Board of Adjustment may make such modifications in individual cases, upon showing good cause with respect to the height, nature or location of the fence, wall, gates or latches or the necessity therefore, provided that the protection as sought hereunder is not reduced thereby.

I. Hot tub/Spa: enclosure. Every outdoor spa shall be equipped with a rigid cover and be covered at all times when not in use or an enclosure shall be provided that complies with § 205-218H.

§ 205-219. Principal buildings.

Each separate principal use building within the planning jurisdiction of the city shall be situated on a separate and single subdivided lot of record, except more than one principal building is permitted on a separate and single subdivided lot of record as follows:

- A. Administration.
- B. Commercial Recreation (High Impact).
- C. Condominium, Townhouse, and Multi-family developments.
- D. Group Homes in all permitted districts except AG, RE, R-1, R-2, and R-3.

- E. Hospital campuses.
- F. MU Mixed Use and PUD Planned Unit Development projects where multiple principal buildings on a single lot were approved by City Council as part of a development agreement.
- G. Office campuses and industrial campuses when approved as a Large Project special use permit.
- H. Public Assembly.
- I. Religious Assembly.
- J. Secondary Education and college campuses.

§ 205-220. Accessory buildings and structures.

- A. Accessory buildings are subject to all site development regulations of the zoning district, except as provided below:
 - (1) Maximum gross floor area. Maximum building area. No accessory building classified as a shed shall exceed 300 square feet in an R-1, R-2, R-3, or R-4 District. No accessory building classified as a shed shall exceed 480 square feet in an RE District. No other accessory building shall exceed 960 square feet in an R-1, R-2, R-3, R-4, or RE District, except that an accessory building classified as a detached garage for multi-family development in the R-4 District shall not exceed 1,750 square feet.
 - (2) Number allowed. In the R-1, R-2, R-3, and R-4 Districts, not more than two accessory buildings are permitted per lot, except for multi-family developments in the R-4 District and schools in any district.
 - (3) Height. In the R-1, R-2, R-3, and R-4 Districts, the maximum height shall be 15 feet for any accessory building. In the RE District, the maximum height for any accessory building shall be 20 feet. For a detached garage with gambrel style roof, the height will be measured from the average grade to the midpoint of the upper roof plane.
 - (4) Building Materials. Accessory buildings in excess of 200 square feet must be constructed of materials that are consistent in type, color, and scale of the principal building on the site, including roof materials. Accessory buildings located in the AG District that are used for agricultural use types shall be exempt from the building materials requirement.
 - (5) Front yards. In the AG, RE, R-1, R-2, R-3, and R-4 Districts, no accessory building may be located between the front building line of the principal building and the front property line, except that accessory buildings located in the AG District that are used for agricultural use types may be located between the front building line of the principal building and the front property line provided that the accessory building meets the front yard setback for the AG District.

- (6) Interior side yards. An accessory structure may be located five feet from the interior side lot line of the property only if such accessory structure is located between the rear building line of the principal building and the rear property line. Accessory buildings in the AG, RE, R-1, R-2, R-3, and R-4 Districts that are not in excess of 200 square feet and 10 feet in height shall be exempt from the interior side yard setback provided that the accessory building is located between the rear building line of the principal building and the rear property line. An accessory structure that is located between the front building line of the principal building and the rear building line of the principal building shall comply with the interior side yard setback of the zoning district.
- (7) Street side yards. No detached garage shall be located within 20 feet from any street lot line. All other accessory structures shall be located 15 feet from any street lot line, except that accessory buildings in the AG, RE, R-1, R-2, R-3, and R-4 Districts that are not in excess of 200 square feet and 10 feet in height shall be exempt from the street yard setback provided that the accessory building is located between the rear building line of the principal building and the rear property line. An accessory structure that is located between the front building line of the principal building and the rear building line of the principal building shall comply with the street side yard setback of the zoning district.
- (8) Rear Yard. The minimum rear yard setback for accessory structures shall be eight feet, except that accessory buildings in the AG, RE, R-1, R-2, R-3, and R-4 Districts that are not in excess of 200 square feet and 10 feet in height shall be exempt from the rear yard setback. This minimum rear yard setback shall be increased to 15 feet for an accessory building that allows vehicular access from an alley. Double frontage lots shall require front yard setbacks along both street frontages, except that the standard 8 foot rear yard setback shall be permitted when all of the following conditions are met:
 - (a) The rear yard is adjacent to a major street and the lot does not take direct access to the major street.
 - (b) The total gross floor area of the accessory garage does not exceed 480 square feet.
 - (c) The maximum height of the accessory garage, measured to the peak of the roof, does not exceed 20 feet.
 - (d) No door greater than 40 inches in width is located on the side of the accessory garage facing the major street.

Easements may be incorporated into the required setbacks. No accessory structure shall be located within any easement or right-of-way along the rear property line.

- (9) Detached accessory structures.
 - (a) Separation from other buildings. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building, on the same or adjacent property, as provided in the local building code.
 - (b) Detached garages shall have a hard surface driveway connected to a street or alley. Detached garages located in the AG District are exempt from this requirement.

- (10) Attached accessory structures. Any accessory building physically attached to the principal building shall be considered part of the principal building and subject to the development regulations of its zoning district.
- (11) Effect on adjacent properties. If an adjacent lot is built upon, the accessory structure must be entirely to the rear of the front line of any principal building on such adjacent lot. No accessory structure shall damage adjacent property by obstructing views, inhibiting solar access or hindering ventilation.
- (12) Hazards. Any accessory structure that creates a potential fire hazard shall be located a minimum of eight feet from any residential structure. Such uses include but are not limited to detached fireplaces, barbecue ovens or storage of flammable materials.
- (13) No accessory structure shall be built upon any lot until construction of the principal building has begun.

§ 205-221. Appeals. [Amended 10-6-1998 by Ord.No. 1275]

Denial, revocations or cancellations of a building permit based on the provisions of this article may be appealed to the Board of Adjustment, as set forth in §§ 205-307 through 205-309.

§ 205-222. (Reserved)

§ 205-223. (Reserved)