

## **AGENDA ITEM 4C**

**Public Hearing for Zoning Ordinance Text  
Amendments – Sections 2.04 (Definitions: C) and  
5.14 (I-2 Heavy Industrial District) – City of La Vista**

# Memorandum



**To:** Planning Commission

**From:** Christopher Solberg, City Planner

**Date:** 8/9/2018

**Re:** Public Hearing regarding text amendments  
to the Zoning Ordinance – Sections 2.04  
(Definitions - C) and 5.14 (I-2 Heavy  
Industrial District).

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Permanent “**Concrete Batch Plants**” are currently not addressed in the City’s Zoning Ordinance. Staff has been contacted by the Lyman-Richey Corporation regarding a potential project which would expand their plant located on the northwest corner of 96<sup>th</sup> Street and Portal Road. Because concrete batch plants are not listed as a use in the I-2 District, the current use is nonconforming and expansion would not be permitted. Staff has evaluated their proposal and concluded that we would recommend an amendment to allow concrete batch plants as a conditional use in the I-2 District.

The proposed changes to the Zoning Ordinance provide a definition for the use of Concrete Batch Plant and add it as a conditional use in the I-2 Heavy Industrial District.

A redline copy of the proposed amendments is attached.

**STAFF RECOMMENDATION:**

Staff recommends approval of the proposed amendments.

## **Section 2.04 - Definitions: C**

**CAMPGROUND** shall mean a parcel of land intended for the temporary occupancy of tents, campers, and recreational vehicles and which primary purpose is recreational, having open areas that are natural in character.

**CAR WASH** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles, not including semi-trailer tractors, buses, and commercial fleets.

**CARPORT** shall mean a permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage.

**CELLAR** shall mean a building space having more than one-half (1/2) of its height below the average adjoining grade lines.

**CEMETERY** shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.

**CHANGEABLE COPY** shall refer to a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without, altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance. (*Ordinance No. 1083, 2-17-09*)

**CHANNEL** shall mean the geographical area within either the natural or artificial banks of a watercourse or drainway.

**CHARITABLE ORGANIZATION or CLUB** shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals. (*Ordinance No. 1083, 2-17-09*)

**CHILD CARE CENTER** shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for thirteen (13) or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

**CHILD CARE HOME** shall mean an operation in the provider's place of residence which serves at least four (4), but not more than eight (8) children at any one time, from families other than that of the provider. A Family Child Care Home I provider may be approved to serve no more than two (2) additional school-age children during non-school hours. A Family Child Care Home II operation may be either in the provider's own place of residence or a site other than the residence, serving twelve (12) or fewer children at any one time. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.

**CITY** shall mean the City of La Vista.

**CODE** shall mean the Municipal Code of the City of La Vista.

**COFFEE KIOSK** shall mean a retail food business in a freestanding building that sells coffee, or other beverages, and remade bakery goods from a drive-through window or walk-up window. (*Ordinance No. 1053, 1-15-08*).

**COLLEGE AND UNIVERSITY** shall mean an educational institution offering advanced instruction in any academic field beyond the secondary level, including trade schools or business colleges. (*Ordinance No. 1168, 3-6-12*)

**COMMISSION** shall mean the La Vista Planning Commission.

**COMMERCIAL MESSAGE** shall mean any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity. (Ordinance No. 1083, 2-17-09)

**COMMON AREA OR PROPERTY** shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners of the individual building sites in a Planned Development or condominium development.

**COMMUNICATION SERVICES** shall mean establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services or wireless communication towers. Typical uses include television studios, communication service centers, internet service offices, or film and sound recording facilities. (Ordinance No. 1083, 2-17-09)

**COMPATIBILITY** shall mean harmony in the appearance of two or more external design features in the same vicinity.

**COMPATIBLE USES** shall mean a land use which is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.

**COMPREHENSIVE PLAN** shall mean the Comprehensive Plan of La Vista, Nebraska as adopted by the City Council, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in Section 19-903, R.R.S. 1943, as the same may, from time-to-time, be amended.

**CONCRETE BATCH PLANT** shall mean an industrial facility used for the production of concrete, used in building or construction, and includes facilities for the administration or management of the business.

**CONDITIONAL USE** shall mean a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

**CONDITIONAL USE PERMIT** shall mean a permit issued by the Planning Commission and City Council that authorizes the recipient to make conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon, or required by said permit.

**CONDOMINIUM** shall mean a structure or structures proposed for construction comprising a project in which an undivided interest in the land is coupled with the right to the exclusive occupancy of a designated residential space and/or spaces and accompanying facilities.

**CONGREGATE HOUSING** shall mean a residential facility for four or more persons fifty-five (55) years or over, their spouses, or surviving spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room or unit in the residential facility. (Also see Housing for the elderly)

**CONSERVATION** shall mean the protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings or natural resources.

**CONSERVATION AREA** shall mean environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.

**CONSERVATION EASEMENT** shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.

**CONSTRUCTION** shall mean on-site erection, fabrication, installation, alteration, demolition, or removal of any structure, facility, or addition thereto, including all related activities, but not restricted to, clearing of land, earth moving, blasting and landscaping. (**Ordinance No. 1083, 2-17-09**)

**CONTIGUOUS** shall mean the same as "Abut".

**CONTINUING CARE RETIREMENT COMMUNITY** shall offer services and housing packages that allow access to senior independent living, assisted living, and nursing care facilities. Seniors who are independent may live in a single-family home, apartment or condominium within the Continuing Care Retirement Community. When members of the community begin to need help with activities of daily living (e.g. bathing, dressing, eating, etc.), they may be transferred to an assisted living or nursing care facility on the same site.

**CONVENIENCE STORE** shall mean a one-story, retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. Fuel sales shall be limited to automobiles, pick-up trucks, boats, recreational vehicles, motorcycles, and small motorized equipment. (**Ordinance No. 1083, 2-17-09**)

## Section 5.14 I-2 Heavy Industrial

**5.14.1 Intent:** *It is the intent of the Heavy Industrial District Regulations to provide for industrial uses and services, including some manufacturing, wholesaling and storage activities; to preserve land for the expansion of the basic economic activities; to avoid incompatible land uses; to serve these areas with adequate transportation facilities; and to prevent or mitigate hazards to adjacent properties. (Ordinance No. 1053, 1-15-08)*

Adult Entertainment Facilities are included in this Zoning District. The intent of the La Vista Zoning Ordinance is not to prohibit these uses but to regulate the secondary effects of these uses within the community.

**5.14.2 Permitted Uses: (Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted)**

- 5.14.2.01 Assembly, fabrication, *packaging*, and processing of products inside an enclosed building, except hazardous or toxic materials
- 5.14.2.02 *Automotive services, except repair, towing and wrecking*
- 5.14.2.03 *Business services*
- 5.14.2.04 *Facilities for building construction contractors*
- 5.14.2.05 *Landscape and horticultural services*
- 5.14.2.06 *Medical and dental laboratories*
- 5.14.2.07 *Miscellaneous repair services, not including automotive*
- 5.14.2.08 *Printing, publishing, and allied industries*
- 5.14.2.09 *Electric, gas and sanitary services, not including collection and disposal of solid waste or hazardous waste*
- 5.14.2.10 *General warehousing*
- 5.14.2.11 *Testing laboratories*
- 5.14.2.12 *Facilities for heavy construction contractors*
- 5.14.2.13 *Manufacturing of apparel, textile mill products, furniture and fixtures, transportation equipment, and assembly of electrical and electronic equipment and components*
- 5.14.2.14 Manufacture of light sheet metal products including heating and ventilation equipment.
- 5.14.2.15 *Manufacturing of food and kindred products, limited to bakery items, dairy products, sugar and confectionary products, and beverages*
- 5.14.2.16 *Manufacturing stone, clay, glass and concrete products*
- 5.14.2.17 *Millwork; veneer, plywood and structural wood products manufacturing.*
- 5.14.2.18** *Publicly owned and operated facilities. (Ordinance No. 950, 3-1-05)*
- 5.14.2.19** *Special and vocational educational and training facilities. (Ordinance No. 950, 3-1-05)*
- 5.14.2.20 Transportation services
- 5.14.2.21 Trucking and courier services, except air
- 5.14.2.22 Veterinary Services, including livestock
- 5.14.2.23 *Wholesale trade of goods*
- 5.14.2.24 *Microbreweries without on-site sales*

**5.14.3 Permitted Conditional Uses: (Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted)**

- 5.14.3.01 *Automotive rental / leasing and other heavy equipment rental*
- 5.14.3.02 *Manufacturing of food and kindred products, except bakery items, dairy products, sugar and confectionary products, and beverages*
- 5.14.3.03 *Lumber and other building materials dealer*
- 5.14.3.04 *Outdoor storage or display of merchandise*
- 5.14.3.05 Radio, television and communication towers and transmitters, as per Section 7.11
- 5.14.3.06 Utility substations, terminal facilities, and reservoirs
- 5.14.3.07 Farm-implement sales and service
- 5.14.3.08 *Temporary Batch plant for concrete, asphalt, or paving material, not to exceed 24 months of operations*
- 5.14.3.09 Cabinetry millwork
- 5.14.3.10 *Recycling center for computers, televisions and household items*
- 5.14.3.11 Storage of bulk petroleum products
- 5.14.3.12 *The manufacturing, compounding, processing, extruding, painting, coating and assembly of steel, metal, vinyl, plastic, paper and similar products and related outdoor and indoor storage activities. (Ordinance No. 855, 3-5-02)*
- 5.14.3.13 *Gasoline service stations*

5.14.3.14	<i>Automotive repair services</i>
5.14.3.15	<i>Sale of recreational vehicles, including boats and jet skis</i>
5.14.3.16	<i>Indoor recreational facility (Ordinance No. 918, 10-6-03)</i>
5.14.3.17	<i>Self-service storage facility (Ordinance No. 1069, 8-19-08)</i>
5.14.3.18	Adult Entertainment establishments <ul style="list-style-type: none"> <li>1. No Adult business shall be closer than 500 feet to any similar use and no closer than 500feet to a residential district / use, religious uses, educational uses and recreational uses. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the point on the property line of such other adult business, residential district / use, religious use, educational uses and recreational use. In addition, no Adult establishment shall be located within the Gateway Corridor Overlay or within 500 feet of said Overlay Corridor.</li> <li>2. Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.</li> <li>3. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.</li> <li>4. No adult business shall be open for business between the hours of one am and six a.m.</li> <li>5. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.</li> <li>6. Such use shall not impair an adequate supply of light and air to surrounding property.</li> <li>7. Such use shall not unduly increase congestion in the streets or public danger of fire and safety.</li> <li>8. Any explicit signs shall not be seen from any point off-premises.</li> <li>9. Such use shall not diminish or impair established property values in adjoining or surrounding property.</li> <li>10. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of LaVista, Nebraska.</li> <li>11. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.</li> <li>12. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of eighteen (18) years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.</li> <li>13. Prohibited Activities of Adult Businesses <ul style="list-style-type: none"> <li>A. No adult business shall employ any person less than eighteen (18) years of age.</li> <li>B. No adult business shall furnish any merchandise or services to any person who is under eighteen (18) years of age.</li> <li>C. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.</li> <li>D. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.</li> </ul> </li> </ul>
5.14.3.19	<i>Industrial Condominiums</i>
5.14.3.20	<i>Microbreweries with on-site sales</i>
5.14.3.21	<i>Concrete Batch Plant</i>

**5.14.4 Permitted Accessory Uses:**

- 5.14.4.01 Buildings and uses customarily incidental to the permitted uses
- 5.14.4.02 Parking as permitted in Section 7.05 through 7.09
- 5.14.4.03 Signs allowed in Section 7.01 through 7.04
- 5.14.4.04 Temporary buildings and uses incidental to construction work which will be removed upon completion or abandonment of the construction work
- 5.14.4.05 Live-in quarters used by live-in watchman or custodians during periods of construction
- 5.14.4.06 Landscaping as required by Section 7.17

**5.14.5 Height and Lot Requirements:**

- 5.14.5.01 The height and minimum lot requirements shall be as follows:

Use	Lot Area (SF) <sup>2</sup>	Lot Width <sup>2</sup>	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000	100	35' <sup>1</sup>	30'	25'	45'	75%
Permitted Conditional Uses	10,000	100	35' <sup>1</sup>	30'	25'	45'	75%

<sup>1</sup> 35' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of sixty (60) feet.

<sup>2</sup> *Lots created before January 1, 2008 may have a minimum Lot Area of 10,000 square feet and may have less than the minimum 100 feet lot width. (Ordinance No. 1053, 1-15-08)*

**5.14.6 Use Limitations:**

- 5.14.6.01 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within thirty (30) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.17.04. (**Ordinance No. 1053, 1-15-08**)
- 5.14.6.02 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
- 5.14.6.03 *No use shall produce a nuisance or hazard from fire, explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent, or electrical interference which may affect or impair the normal use and peaceful enjoyment of any surrounding property, structure, or dwelling. (Ordinance No. 1053, 1-15-08)*

**5.14.7 Performance Standards:**

See Section 7.16 of the Supplemental Regulations.