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## **ARTICLE 1: TITLE AND PURPOSE**

### **Section 1.01 Title**

This Ordinance shall be known and may be cited and referred to as the Zoning Ordinance of the City of Tekamah, Nebraska.

### **Section 1.02 Purpose**

This ordinance has been made in accordance with the Tekamah Comprehensive Development Plan and to promote the health, safety, morals and general welfare of the community; to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

## ARTICLE 2: DEFINITIONS

### Section 2.01 Rules

For the purpose of this Ordinance, the following rules shall apply:

- 2.01.01 Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.
- 2.01.02 The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, council, commission, trustee, receiver, agent or other representative.
- 2.01.03 The word "shall" is mandatory. The word "may" is permissive.
- 2.01.04 The words "use", "used", "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed" to be used or occupied.
- 2.01.05 Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.
- 2.01.06 The word "city" shall refer to the City of Tekamah, Nebraska, the word "board" shall refer to the Village Board of Tekamah, and the word "commission" shall refer to the Planning Commission of Tekamah.

### Section 2.02 Definitions

For the purposes of this Ordinance, the following words shall have the following definitions:

- 2.02.01 **ABANDONMENT** shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.
- 2.02.02 **ACCESS or ACCESS WAY** shall mean the place, means, or path by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use.
- 2.02.03 **ACCESSORY BUILDING or STRUCTURE** shall mean a detached subordinate building or structure located on the same lot with the principal building or structure, the use of which is incidental and accessory to that of the principal structure. Customary accessory buildings and structures include farm buildings, garages, carports, and storage sheds.
- 2.02.04 **ACCESSORY LIVING QUARTERS** shall mean living quarters within an accessory building located on the same premises with the principal building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.
- 2.02.05 **ACREAGE** shall mean any tract or parcel of land used for single-family residential purposes that does not qualify as a farm or farmstead.
- 2.02.06 **ADJACENT** shall mean near, close, or abutting, including property that may be separated by a street, or alley.

2.02.07 **ADULT ESTABLISHMENT** shall mean any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but not limited to, adult bookstores, adult companionship establishments, adult hotels or motels, adult massage parlors or health clubs, adult motion picture theaters or arcades, adult novelty businesses, adult saunas, and juice bars.

2.02.08 **ADULT BOOKSTORE OR ADULT VIDEO STORE** shall mean a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

1. At least 35% of the establishment's displayed merchandise consists of said items, or
2. At least 35% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items, or
3. At least 35% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or
4. The establishment maintains at least 35% of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
5. The establishment maintains at least five hundred square feet (500 sq. ft.) of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
6. The establishment regularly offers for sale or rental at least two thousand (2,000) of said items; or
7. The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

**ADULT CABARET** shall mean a nightclub, bar, juice bar, restaurant, bottle club, lounge, or similar commercial establishment that regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

2.02.09 **ADULT COMPANIONSHIP ESTABLISHMENT** shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

- 2.02.10 **ADULT ESTABLISHMENT** shall mean an “adult bookstore or adult video store,” an “adult cabaret,” an “adult motion picture theater,” or an “adult paraphernalia store.”
- 2.02.11 **ADULT HOTEL OR MOTEL** shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
- 2.02.12 **ADULT MASSAGE PARLOR, ADULT HEALTH CLUB** shall mean a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- 2.02.13 **ADULT MINI-MOTION PICTURE THEATER** shall mean business premises within an enclosed building with a capacity for less than fifty (50) persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- 2.02.14 **ADULT MOTION PICTURE ARCADE** shall mean any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."
- 2.02.15 **ADULT MOTION PICTURE THEATER** shall mean a commercial establishment to which the public is permitted or invited wherein an image-producing device is regularly maintained to show images to more than five persons at any one time, and where the images so displayed are characterized by their emphasis upon “specified sexual activities” or “specified anatomical areas.”
- 2.02.16 **ADULT NOVELTY BUSINESS** shall mean a business that has as a principal activity the sale of devices that simulate human genitals or devices that are designed for sexual stimulation.
- 2.02.17 **ADULT PARAPHERNALIA STORE** shall mean a commercial establishment that regularly offers 100 or more sexual devices for sale. For purposes of this definition, “sexual device” means any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. “Sexual device” shall not be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.
- 2.02.18 **ADULT SAUNA** shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

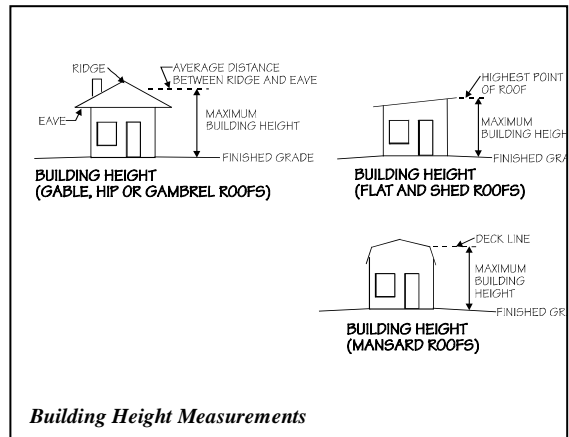
- 2.02.19 **ADVERTISING STRUCTURE** shall mean any structure used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which may be on or not on the property with such Advertising Structure.
- 2.02.20 **AGRICULTURAL or FARM BUILDINGS** shall mean any building or structure which is necessary or incidental to the normal conduct of a farming operation, including but not limited to, residence of the operator, residence of hired persons, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.
- 2.02.21 **ALLEY** shall mean a minor public service street or public thoroughfare, running through a block of lots, provided primarily for vehicular service access to the rear or side of properties otherwise abutting on another street.
- 2.02.22 **ALTERATION** shall mean any change, addition or modification to the construction or occupancy of an existing structure.
- 2.02.23 **AMENDMENT** shall mean a change in the wording, context, or substance of this Ordinance, or an addition, deletion or change in the district boundaries or classifications upon the Official Zoning Map.
- 2.02.24 **ANIMAL HOSPITAL** shall mean a place where animals are given medical care and the boarding of animals is limited to short-term stay incidental to medical care.
- 2.02.25 **ANIMAL UNIT** shall mean any of the following:  
 One a.u. = One half (0.5) Horses;  
 One a.u. = Seven-tenths (0.7) Mature Dairy Cattle;  
 One a.u. = One (1) Slaughter or Feeder Cattle;  
 One a.u. = Two (2) Sows with litters;  
 One a.u. = Two and one-half (2.5) Swine (55 pounds or greater);  
 One a.u. = Five (5) Ducks;  
 One a.u. = Ten (10) Sheep;  
 One a.u. = Twenty-five (25) Weaned pigs (less than 55 pounds);  
 One a.u. = Fifty (50) Turkeys;  
 One a.u. = One-hundred (100) Chickens.
- 2.02.26 **ANTENNA** shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. (Also, see Satellite Dish Antenna, and Tower.)
- 2.02.27 **ANTIQUUE SHOP** shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, that is at least thirty (30) years old.
- 2.02.28 **APARTMENT** shall mean a room or a suite of rooms within a multiple family dwelling arranged, intended or designed as a place of residence for a single family or group of individuals living together as a single housekeeping unit. (Also, see Dwelling Unit.)
- 2.02.29 **APPROPRIATE** shall mean fitting the context of the site and the whole community.

- 2.02.30 **AUCTION SALES** shall mean a building or structure or lands used for the storage of goods, materials or livestock which are to be sold on the premises by public auction and for the sale of the said goods, materials or livestock by public auction and on an occasional basis. Auction sales also includes motor vehicle wholesale sales, including trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles.
- 2.02.31 **AUTOMOBILE** shall mean vehicle with the gross vehicle weight less than 9,000 pounds.
- 2.02.32 **AUTOMOBILE SALES** shall mean the storage and display for sale or lease of more than two motor vehicles or any type of trailer (provided the trailer is unoccupied) at any one time and/or a total of ten or more sold or leased during the course of a calendar year, and where repair or body work is incidental to the operation of the new or used vehicle sales or leasing. Automobile sales include all motor vehicle retail sales and leases including automobile, golf carts, vans, boats or motorcycles or other similar motorized transportation vehicles.
- 2.02.33 **AUTOMOTIVE REPAIR SERVICES** shall refer to any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work; oil change and lubrication; major painting services; collision services; and tire service and sales.
- 2.02.34 **AUTOMOBILE SERVICES** shall refer to any building, structure, improvements or land used for the general maintenance of automobiles, motorcycles, trailers or similar vehicles including but not limited to washing, cleaning, and/or detailing; installation of car stereos, accessories, or other light equipment; and minor painting.
- 2.02.35 **AUTOMOBILE WASH FACILITY** shall mean a building, or portion thereof, containing facilities for the primary purpose of washing automobiles, using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices; or providing space, water, equipment, or soap for the complete or partial hand-washing of such automobiles, whether by operator or by customer.
- 2.02.36 **AUTOMOBILE SALVAGE YARD** shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.
- 2.02.37 **BAR or TAVERN** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. (Also, see Nightclub.)
- 2.02.38 **BASE FLOOD** shall mean the flood, from whatever source, having a one percent (1%) chance of being equaled or exceeded in any given year, otherwise referred to as the 100-year flood. (Also, see Floodplain).
- 2.02.39 **BASE FLOOD ELEVATION** shall mean that elevation, expressed in feet above mean sea level, to which flooding can be expected to occur on a frequency of once in every 100 years, or which is subject to a one percent (1%) or greater chance of flooding in any given year.



- 2.02.40 **BASEMENT or CELLAR** shall mean a portion of a building that is wholly or partly below grade, the ceiling of which is less than four feet (4') above grade.
- 2.02.41 **BED AND BREAKFAST INN** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided, and the operator of which shall live on the premises.
- 2.02.42 **BERM** shall mean a raised form of earth, used to provide screening or improve aesthetic character.
- 2.02.43 **BLOCK** shall mean a parcel of land platted into lots and bounded by public streets or by waterways, rights-of-way, non-platted land, City or County boundaries or adjoining property lines.
- 2.02.44 **BLOCK FRONTAGE** shall mean that section of a block fronting on a street between two intersecting streets or other block boundary.
- 2.02.45 **BOARDING or ROOMING HOUSE** shall mean a building containing a single dwelling unit and provisions for not more than five (5) guests, where lodging is provided with or without meals for compensation.
- 2.02.46 **BREWERY** shall mean a facility for brewing ale, beer, mead and/or other similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined) annually.
- 2.02.47 **BREWERY, MICRO** shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 10,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.
- 2.02.48 **BREEZEWAY** shall mean a structural connection between two or more buildings, having at least a solid, permanent roof.
- 2.02.49 **BROADCASTING TOWER** shall mean a structure for the transmission or broadcast of radio, television, radar, cellular, or microwave signals, which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding fifty feet (50') in height shall not be considered broadcast towers.
- 2.02.50 **BUFFER** shall mean a strip of land, whether vegetated or not, established to protect one type of land use from another land use or between a land use and a private or public road. (Also, see Screening.)
- 2.02.51 **BUILDABLE AREA** shall mean the portion of a lot remaining after the required yards have been provided.
- 2.02.52 **BUILDING** shall mean an enclosed structure, anchored to a permanent foundation, having exterior walls and a roof, designed, built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building. (Also, see Structure).

2.02.53 **BUILDING HEIGHT** shall mean the vertical distance above grade to the highest point of a flat or shed roof, or to the deck line of a mansard roof, or to the average height of the highest point of a gable, hip, or gambrel roof, measured from the highest adjoining sidewalk or ground surface within a five foot (5') horizontal distance of the exterior wall of the building.



2.02.54 **BUILDING SETBACK LINE** shall mean the required distance between any property line and the closest point on the wall or face of any building related thereto.

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

2.02.56 **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 passenger type motor vehicles.

2.02.57 **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.

2.02.58 **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.

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

2.02.60 **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 children 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.

2.02.61 **CHILD CARE HOME** shall mean an operation providing care, in the provider's place of residence for children from families other than that of the provider. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.

2.02.62 **CLUB** shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.

2.02.63 **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 multi-family, subdivision or condominium development.

- 2.02.64 **COMMUNITY CENTER** shall mean a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.
- 2.02.65 **COMPATIBLE USE** shall mean a land use that is suitable with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be caused 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.
- 2.02.66 **COMPREHENSIVE PLAN** shall mean the Comprehensive Development Plan of Tekamah, 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 the Neb. Rev. Stat. §19-903 (R.R.S.1997).
- 2.02.67 **CONDITIONAL USE PERMIT** shall mean a permit issued by the Planning Commission and City Council that authorizes the recipient to make a conditional use of property in accordance with the provisions of this Ordinance and any additional conditions placed upon, or required by said permit.
- 2.02.68 **CONFLICTING LAND USE** shall mean the use of property in a manner that is incompatible with neighboring uses.
- 2.02.69 **CONGREGATE HOUSING** shall mean a residential facility for four or more persons aged fifty-five (55) years or over and their 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 Life Care Facility)
- 2.02.70 **CONSERVATION** shall mean the management of natural resources to prevent waste, destruction, or degradation.
- 2.02.71 **CONSERVATION AREA** shall mean an area of environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in the case of an 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.
- 2.02.72 **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.
- 2.02.73 **CONVENIENCE STORE** shall mean a one-story, retail store containing less than two-thousand (2,000) square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies, and limited amounts of gasoline to customers who purchase only a relatively few items.
- 2.02.74 **CONTIGUOUS** shall mean to abut, border on, or have common property or district lines, including property separated by a street or alley.

- 2.02.75 **CORPORATE LIMITS** shall mean the boundary line that demarcates all land, structures and open space that has been annexed into the City's jurisdiction, but does not include the extraterritorial jurisdiction of the City.
- 2.02.76 **COURT** shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and bounded on two (2) or more sides by such building or buildings.
- 2.02.77 **COURT, INNER** shall mean a court enclosed on all sides by exterior walls of a building or buildings.
- 2.02.78 **COURT, OUTER** shall mean a court enclosed on at least two (2) but less than all sides by exterior walls of building or buildings.
- 2.02.79 **CUL-DE-SAC** shall mean a short public way, which has only one outlet for vehicular traffic and terminates in a vehicular turn-around.
- 2.02.80 **DATE OF SUBSTANTIAL COMPLETION** shall mean the date certified by the local building inspector or zoning administrator when the work, or a designated portion thereof is sufficiently complete, so the owner may occupy the work or designated portion thereof for the use for which it is intended.
- 2.02.81 **DENSITY** shall mean the number of dwelling units per gross acre of land.
- 2.02.82 **DETENTION BASIN** shall mean a facility for the temporary storage of stormwater runoff.
- 2.02.83 **DEVELOPER** shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.
- 2.02.84 **DEVELOPMENT** shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.
- 2.02.85 **DISTRICT or ZONING DISTRICT** shall mean a section or sections of the Official Zoning Map for which uniform regulations governing the height, use, area, size, and intensity of use of buildings, land, and open spaces are established.
- 2.02.86 **DRAINAGEWAY** shall mean any depression below the surrounding land, serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks. When there is doubt as to whether a depression is a watercourse or drainage way, it shall be presumed to be a watercourse.
- 2.02.87 **DWELLING** shall mean any building or portion thereof which is designed and used exclusively for single family residential purposes, excluding mobile homes.
- 2.02.88 **DWELLING, CONDOMINIUM** shall mean, pursuant to the Nebraska Condominium Act, as set forth in Neb. Rev. Stat. §§ 76-825 to 76-894 (R.R.S.1996), real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions.

- 2.02.89 **DWELLING, MANUFACTURED HOME** shall mean, pursuant to Neb. Rev. Stat. §71-4603 (Cum.Supp.2002), a structure, transportable in one or more sections, which in the traveling mode is eight body feet (8') or more in width or forty body feet (40') or more in length or when erected on site is three hundred twenty (320) or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes plumbing, heating, air conditioning, and electrical systems contained in the structure. Manufactured home also includes any manufactured home designed and manufactured with more than one separate living unit for the purpose of multi-family living. A manufactured home shall bear a seal on its exterior to evidence compliance with state standards. Such seal shall be issued by the Nebraska Department of Health and Human Services Regulation and Licensure prior to May 1, 1998, the Nebraska Public Service Commission on or after May 1, 1998. A federal manufactured home label shall be recognized as an acceptable seal.
- 2.02.90 **DWELLING, MOBILE HOME** shall mean, pursuant to Neb. Rev. Stat. §76-1463 (R.R.S.1996), a moveable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or of two (2) or more units, separately towable but designed to be joined into one (1) integral unit. Mobile Home shall include Manufactured Home.
- 2.02.91 **DWELLING, MODULAR HOME** shall mean, pursuant to Neb. Rev. Stat. §71-1557 (Cum.Supp.2000), any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities. Such dwelling is considered to be a conventional type single-family dwelling, and shall be taxed as real estate.
- 2.02.92 **DWELLING, MULTIPLE-FAMILY** shall mean a building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other, and having separate kitchen and toilet facilities for each family.
- 2.02.93 **DWELLING, SINGLE FAMILY** shall mean a building having accommodations for or occupied exclusively by one family.
- 2.02.94 **DWELLING, SINGLE FAMILY ATTACHED** shall mean a portion of a residential building having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each such dwelling may be sold independently of other portions.
- 2.02.95 **DWELLING, TOWNHOUSE** shall mean a one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical wall(s).
- 2.02.96 **DWELLING, TWO (2) FAMILY** shall mean a building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family.
- 2.02.97 **EASEMENT** shall mean a grant, made by a property owner, to the use of his or her land by the public, a corporation, or persons, for specific purposes, such as access to another property or the construction of utilities, drainage ways or roadways.

- 2.02.98 **EDUCATIONAL INSTITUTION** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, and commercial or private trade schools are not included in this definition.
- 2.02.99 **ELECTRONIC CHANGEABLE MESSAGE SIGN (ECMS)** shall mean an outdoor advertising sign that changes the message, advertisement, or copy on the sign face by electronic or mechanical device or process, either automated or remote, regardless of the process used. Blinking, flashing, rotating, revolving, spinning, fluttering lighting or animation is not allowed. Transition between messages is permitted, but such transitions may only fade, scroll, travel or reveal.
- 2.02.100 **EMPLOYEE OF AN ADULT ESTABLISHMENT** shall mean any person who performs any service on the premises of an adult establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.
- 2.02.101 **ENCROACHMENT** shall mean an obstruction or illegal or unauthorized intrusion into a delineated floodway, right-of-way, or adjacent property.
- 2.02.102 **ENLARGE** shall mean to expand a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.
- 2.02.103 **ERECTED** shall mean constructed upon or moved onto a site.
- 2.02.104 **EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits of the City, in which the State has granted the City the power to exercise zoning jurisdiction and building regulations.
- 2.02.105 **FACTORY** shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.
- 2.02.106 **FAMILY** shall mean a household head and one or more persons related to the head by blood, marriage or adoption living together in a single dwelling unit.
- 2.02.107 **FARM or WORKING FARM** shall mean an area containing ten (10) acres or more which is used for growing or storage of the usual farm products such as vegetables, fruit, and grain, as well as for the raising thereon of the usual farm poultry and farm animals, and which produces one-thousand dollars (\$1,000) or more per year of farms products raised on the premises. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

- 2.02.108 **FARMSTEAD** shall mean a farm that also includes a single-family residential dwelling for the farm operator, and may include other dwellings for persons employed on the premises.
- 2.02.109 **FEEDLOT, COMMERCIAL** (See Livestock Feeding Operation.)
- 2.02.110 **FENCE** shall mean a structure serving as an enclosure, barrier or boundary above ground.
- 2.02.111 **FENCE, OPEN** shall mean a fence, including gates, which has fifty percent (50%) or more of the surface area in open spaces, which affords direct views through the fence.
- 2.02.112 **FENCE, SOLID** shall mean any fence, which does not qualify as an open fence.
- 2.02.113 **FLOOD** shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters, or (2) The unusual and rapid accumulation of runoff of surface waters from any source.
- 2.02.114 **FLOODPLAIN** shall mean any land area susceptible to being inundated by flood water from any source.
- 2.02.115 **FLOODWAY** shall mean the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. (Also, see Base Flood).
- 2.02.116 **FLOOR AREA** shall mean the square feet of floor space within the outside line of the walls, including the total of all space on all floors of the building. Floor area shall not include porches, garages, or spaces in a basement, cellar, or attic.
- 2.02.117 **FRONTAGE** shall mean that portion of a parcel of property that abuts a dedicated public street or highway.
- 2.02.118 **GAS STATION** shall mean an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles, and may include facilities available for the sale of other retail products, and may be affiliated with a repair garage. (Also, see Repair Garage.)
- 2.02.119 **GATED COMMUNITIES** shall mean residential areas that restrict access to normally public spaces. These are subdivisions of usually high-end houses. The type of gates can range from elaborate guard houses to simple electronic arms.
- 2.02.120 **GRADE** shall mean the average level of the finished surface of the ground adjacent to the exterior walls of a building.
- 2.02.121 **GRAIN STORAGE** shall mean any structure utilized to contain wheat, corn, oats, soybeans, barley, rye, flax, or sorghum which has not been processed or packaged for the purpose of distribution as seed, including, but not limited to, edible beans, whole corn plant pellets, alfalfa pellets, millet, sunflower seed, safflower seed, and any other bulk pelleted agricultural storable commodity. All Grain Storage Facilities shall be greater than 600 linear feet from all existing residential and commercial zoning district and are prohibited in the Gateway Corridor Overlay District.

- 2.02.122 **GRANDFATHERED** shall mean the status afforded to certain properties, uses, and activities that were legally existing prior to the date of adoption of this zoning ordinance or subsequent amendments.
- 2.02.123 **GREENHOUSE** shall mean a building or premises used for growing plants, preparing floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.
- 2.02.124 **GREENWAY** shall mean a parcel or parcels of land, together with the improvements thereon, dedicated as an easement for access and/or recreation; usually a strip of land set-aside for a walkway, bicycle trail, bridal path, or other similar access way.
- 2.02.125 **GROUND COVER** shall mean plant material used in landscaping which remains less than twelve inches (12”) in height at maturity.
- 2.02.126 **GROUP CARE HOME** shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four (24) hour care, education, and/or participation in group and/or community activities for elderly or handicapped individuals in a residential setting. As used herein, the term "handicapped" shall mean having: (1) A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; or (2) A record of having such an impairment.
- 2.02.127 **GROUP HOUSING** shall mean two (2) or more separate buildings on a lot, each containing one (1) or more dwelling units.
- 2.02.128 **GUEST ROOM** shall mean a room which is designed to be occupied by one (1) or more guests for sleeping purposes, having no kitchen facilities, not including dormitories.
- 2.02.129 **HALF-STORY** shall mean a story under a sloped roof, which has the intersection of the roof line and exterior wall face not more than three feet (3’) above the floor of such story.
- 2.02.130 **HALFWAY HOUSE** shall mean a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.
- 2.02.131 **HAZARDOUS WASTE** shall mean any discarded material, refuse, or waste products, in solid, semisolid, liquid, or gaseous form, that cannot be disposed of through routine waste management techniques because they pose a present or potential threat to human health, or to other living organisms, because of their biological, chemical, or physical properties.
- 2.02.132 **HEALTH CLUB** shall mean a privately owned facility operated for profit, such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.
- 2.02.133 **HOME OCCUPATION** shall mean an “in-home” or “home based” or entrepreneurial business operating from a residential dwelling or residential accessory building, which business is operated by a member of the family residing



in the residence, and is incidental and secondary to the residential occupancy and does not change the residential character or nature of the property and neighborhood, and does not infringe upon the right of neighboring residents to enjoy their property.

- 2.02.134 **HOMEOWNERS ASSOCIATION** shall mean a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.
- 2.02.135 **HOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes but is not limited to motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, and motor hotel.
- 2.02.136 **HOUSEHOLD PET** shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.
- 2.02.137 **IMPERVIOUS SURFACE** shall mean a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as compacted sand, rock, gravel, or clay and conventionally surfaced streets, roofs, sidewalks, parking lots, and driveways.
- 2.02.138 **INCIDENTAL USE** shall mean a use that is subordinate to the principal use of a premise.
- 2.02.139 **INDUSTRY** shall mean the manufacture, fabrication, processing, reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof, and any storage facilities operated in conjunction with an industrial use or for a fee, including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.
- 2.02.140 **INFILL DEVELOPMENT** shall mean the construction of a building or structure on a vacant parcel located in a predominantly built up area.
- 2.02.141 **INFILL SITE** shall mean any vacant lot, parcel or tract of land within developed areas of the City, and where water, sewer, streets, schools, and fire protection have already been constructed or are provided.
- 2.02.142 **INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which is disassembled or wrecked in part or in whole, or is unable to move under its own power; or, (3) is not equipped as required by Nebraska State Law for operation upon streets or highways.
- 2.02.143 **INTENSITY** shall mean the degree to which land is used, referring to the levels of concentration or activity of the use. Typical low intensity uses include agricultural and residential uses. Typical high intensity uses include manufacturing and industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensity uses.
- 2.02.144 **JUICE BAR** shall mean an adult establishment that offers adult entertainment in a bar setting, but does not offer alcoholic beverages for sale. (Also, see Adult Establishment.)

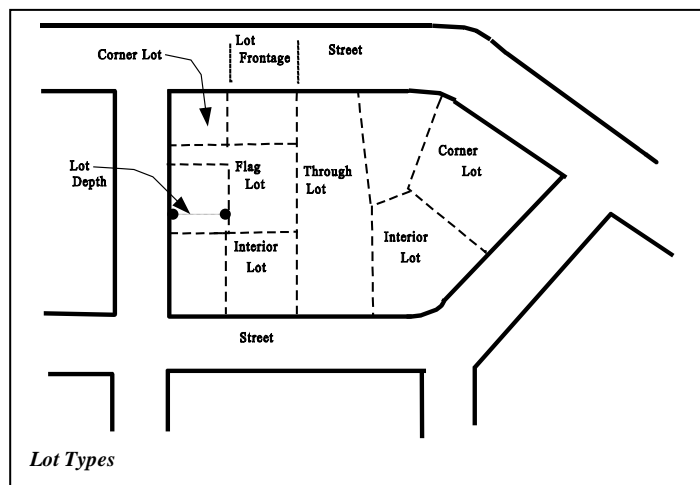
- 2.02.145 **JUNK** shall be any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.
- 2.02.146 **JUNK YARD** shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment resulting from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see "Automobile Salvage Yard".
- 2.02.147 **KENNEL, BOARDING, or TRAINING** shall mean any lot or premises on which four (4) or more dogs, cats, other household pets, or non-farm/non-domestic animals, or any combination thereof, at least four (4) months of age, are boarded or trained for a fee.
- 2.02.148 **KENNEL, COMMERCIAL** shall mean an establishment where four (4) or more dogs, cats, other household pets, or non-farm/non-domestic animals, or any combination thereof, at least four (4) months of age are bred, groomed, boarded, trained, or sold as a business.
- 2.02.149 **LAGOON** shall mean a wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services. All lagoons shall have the proper permits approved prior to starting construction.
- 2.02.150 **LANDFILL** shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means that minimizes environmental hazards, for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals, which conforms to the requirements of the Nebraska Department of Environmental Quality. Such use shall not involve any industrial or commercial process.
- 2.02.151 **LARGE BOX RETAIL** shall mean a singular retail or wholesale user that occupies no less than 30,000 square feet of gross floor area. These uses typically include membership wholesale clubs, emphasizing large bulk sales, discount stores, pharmacies, grocery stores, especially warehouse-style point-of-sale concepts and department stores.
- 2.02.152 **LAUNDROMAT** shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.
- 2.02.153 **LIFE CARE FACILITY** shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate housing, where residents share common meals and other services. (Also, see Congregate Housing).
- 2.02.154 **LIMITS OF GRADING** shall mean the outermost edge of the area in which the existing topography is to be altered by cutting and/or filling.

2.02.155 **LIVESTOCK FEEDING OPERATION (LFO)** shall mean a farm operated for the feeding, farrowing, holding, or raising of beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock, in a confined area (buildings, lots or pens) which is not used for the growing of crops or vegetation but does not include the holding of cattle in calving operations for less than ninety (90) days per year, and where the number of animals so maintained exceeds twenty (20) Animal Units. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two (2) or more LFOs under common ownership are deemed to be a single LFO if they are adjacent (within 1,320 feet) to each other OR if they utilize a common area or system for the disposal of livestock wastes. (Also, see Animal Unit.) All LFO's shall be greater than 600 linear feet from all existing residential and commercial zoning district and are prohibited in the Gateway Corridor Overlay District.

2.02.156 **LOADING SPACE** shall mean an off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.

2.02.157 **LOT:** (1) For the purposes of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning and subdivision requirements for use,

coverage and area, and to provide for such yards and other open spaces as are herein required. Such lot shall have access to street right of way and may consist of a single lot of record or any portion or combination thereof or a parcel of land described by metes and bounds provided that in the case any replat no residual portion of said lot or parcel shall be created that does not meet the requirements of this Ordinance. (2) Where two or



more lots are under common ownership and have been permanently appended to each other by agreement in writing by the owner approved by the City Council or its authorized agent and recorded with the Register of Deeds in the Burt County Clerk's Office; running with the land and binding upon the heirs, personal representatives, successors, and assigns of such owner, which provides that such lots are permanently appended (meaning that one may not be conveyed without the other in a simultaneous transaction to the same grantee); for the determination of minimum front, rear, and side yard requirements, the outer boundary of such lots shall be considered the lot line for establishing set back requirements, and no setback from any internal lot lines, separating such permanently appended lots shall be required.

2.02.158 **LOT MERGERS OR CONSOLIDATIONS:** The merger or consolidation of two or more parcels or lots of record is permitted providing such merger or consolidation meets all zoning requirements of the City of Tekamah and has been approved by the City Council or its authorized agent. including paragraph (2) above.

2.02.159 **LOT SPLITS OR DIVISIONS**: The division of land involving the division of one parcel of land or lot into two or more parcels or lots. Each parcel or lot involved in the division shall meet the zoning requirements for property within the zoning district in which the property is located. Such split or division is permitted providing each such parcel involved that is split or divided, meets the definitions as stated above. See paragraph (2) above.

**Conforming Lot**: A parcel or tract of land that may be used, developed, or built upon under single ownership or control. Said parcel or tract may consist of one or more lots or parcels of record, one or more portions of a lot or lots of record or a combination thereof. No conforming lot or parcel shall be split or divided that would create any lot or parcel so split or divided, to be nonconforming. See paragraph (2) above.

**Building Permits on conforming lots**: Any parcel or tract that has been split or divided or that has been consolidated or merged for the purpose of obtaining a building permit shall have such split or consolidation recorded with the proper legal description in the Deed Records of the Burt County Clerk upon approval of the City Council or its authorized agent and the issuance of a building permit.

Any conforming lot with an existing building shall not be split or divided if such division or split makes any of the lots non-conforming.

2.02.160 **LOT, CORNER** shall mean a lot located at the intersection of two (2) or more streets at an angle of not more than one hundred thirty-five (135) degrees. If the angle is greater than one hundred thirty-five (135) degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets.

2.02.161 **LOT, DOUBLE FRONTAGE, or THROUGH** shall mean a lot having a frontage on two (2) non-intersecting streets as distinguished from a corner lot.

2.02.162 **LOT, FLAG** shall mean an interior lot, the majority of which has frontage and access provided by means of a narrow corridor.

2.02.163 **LOT, INTERIOR** shall mean a lot other than a corner lot.

2.02.164 **LOT AREA** shall mean the total lot area, on a horizontal plane, within the lot lines.

2.02.165 **LOT COVERAGE** shall mean the portion of a lot or building site which is occupied by any building or structure, except paved areas and swimming pools, regardless of whether said building or structure is intended for human occupancy.

2.02.166 **LOT DEPTH** shall mean the average horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot lines.

2.02.167 **LOT FRONTAGE** shall mean the side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.

2.02.168 **LOT LINE** shall mean the property line bounding a lot.

2.02.169 **LOT LINE, FRONT** shall mean the property line abutting a street right-of-way.

- 2.02.170 **LOT LINE, REAR** shall mean a lot line not abutting a street right-of-way, which is opposite and most distant from the front lot line.
- 2.02.171 **LOT LINE, SIDE** shall mean any lot line not a front lot line or rear lot line.
- 2.02.172 **LOT OF RECORD** shall mean a lot or parcel of land, the deed to which has been recorded in the records of the County Registrar of Deeds at the time of the passage of an ordinance establishing the zoning district in which the lot is located.
- 2.02.173 **LOT WIDTH** shall mean the average horizontal distance between the side lot line, measured at right angles to the lot depth at a point midway between the front and rear lot lines.
- 2.02.174 **MANUFACTURED HOME** (See Dwelling, Manufactured Home.)
- 2.02.175 **MANUFACTURED or MOBILE HOME PARK** shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured or mobile housing used or to be used for dwelling purposes and where manufactured or mobile home spaces are not offered for sale or sold. The terms "manufactured home park" or "mobile home park" do not include sales lots on which new or used manufactured or mobile homes are parked for the purposes of storage, inspection, or sale.
- 2.02.176 **MANUFACTURING** shall mean the mechanical or chemical transformation of materials or substances into new products. Manufacturing uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Assembling component parts of manufactured products is also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.
- 2.02.177 **MASSAGE PARLOR** shall mean an establishment other than a regularly licensed and established hospital or dispensary where non-medical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational or physical therapist, chiropractor or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing devices. (Also, see Adult Uses.)
- 2.02.178 **MINI-STORAGE OR MINI-WAREHOUSE** (See Self-Service Storage Facility.)
- 2.02.179 **MIXED USE** shall mean properties where various uses, such as office, commercial, institutional, and residential are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.
- 2.02.180 **MOBILE HOME** (See Dwelling, Mobile Home.)
- 2.02.181 **MOBILE HOME PARK** (See Manufactured or Mobile Home Park.)
- 2.02.182 **MOTEL** (See Hotel.)
- 2.02.183 **MOTOR VEHICLE** shall mean every self-propelled land vehicle, not operated upon rails, except self-propelled wheel chairs.

- 2.02.184 **NIGHTCLUB** shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. (Also, see Bar.)
- 2.02.185 **NONCONFORMING** shall mean a condition wherein building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.
- 2.02.186 **NONCONFORMING BUILDING or STRUCTURE** shall mean a building or structure having less area or dimension, or exceeding the height or setback requirements for the district in which it is located, and which was lawfully constructed prior to the zoning thereof whereby the smaller area or dimension requirements were established.
- 2.02.187 **NONCONFORMING LOT OF RECORD** shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Registrar of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of this Ordinance.
- 2.02.188 **NONCONFORMING USE** shall mean a use that was valid and legal when brought into existence, but by subsequent regulation becomes no longer conforming.
- 2.02.189 **NUDITY** means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.
- 2.02.190 **NUISANCE** shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.
- 2.02.191 **NURSERY** shall mean the use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.
- 2.02.192 **NURSING HOMES or CONVALESCENT HOMES** shall mean an institution or agency licensed by the State of Nebraska for the reception, board, care, or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.
- 2.02.193 **OFFICE** shall mean a building or a portion of a building wherein services are performed involving primarily administrative, professional, or clerical operations.
- 2.02.194 **OFFICIAL ZONING DISTRICT MAP** shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Tekamah City Council.

- 2.02.195 **OFF-STREET PARKING AREA** shall mean all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.
- 2.02.196 **OPEN LOTS or PENS** shall mean pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.
- 2.02.197 **OPEN SPACE** shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.
- 2.02.198 **OPEN SPACE, COMMON** shall mean a separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Rights-of-way, private streets, driveways, parking lots or other surfaces designed or intended for vehicular use or required yards shall not be included as common open space.
- 2.02.199 **OVERLAY DISTRICT** shall mean a district in which additional requirements are imposed upon a use, in conjunction with the underlying zoning district. The original zoning district designation does not change.
- 2.02.200 **OPERATOR OF ADULT ESTABLISHMENT** means any person on the premises of an adult establishment who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner, part owner, or licensee of the business.
- 2.02.201 **OWNER** shall mean one or more persons, including corporations, who have title to the property, building or structure in question.
- 2.02.202 **PARCEL** shall mean a lot or a contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.
- 2.02.203 **PARK** shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.
- 2.02.204 **PARKING SPACE, OFF-STREET** shall mean an area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or road and permitting ingress and egress of an automobile.
- 2.02.205 **PERMANENT FOUNDATION** shall mean a base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.
- 2.02.206 **PERMITTED USE** shall mean any land use allowed without condition within a zoning district.
- 2.02.207 **PERMANENTLY ATTACHED** shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.

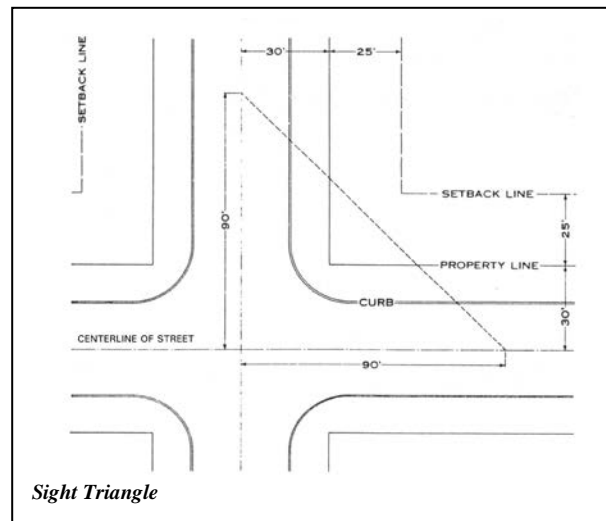
- 2.02.208 **PERSON** shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, City, County, special district or any other group or combination acting as an entity, except that it shall not include the City of Tekamah, Nebraska.
- 2.02.209 **PLANT MATERIALS** shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs and other such vegetation.
- 2.02.210 **PLAT** shall mean a map showing the location, boundaries, and legal description of individual properties.
- 2.02.211 **PRIMARY or PRINCIPAL STRUCTURE** shall mean the main building or structure on a lot, within which the main or primary use of the lot or premises is located.
- 2.02.212 **PROHIBITED USE** shall mean any use of land, other than a nonconforming use, which is not listed as a permitted use, conditional use, or accessory use within a zoning district.
- 2.02.213 **PROTECTED ZONE** shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of the Zoning Regulation.
- 2.02.214 **RAILROAD** shall mean the land use including the right-of-way abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.
- 2.02.215 **RECREATIONAL FACILITY** shall mean facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.
- 2.02.216 **RECREATIONAL VEHICLE** shall mean, pursuant to Neb. Rev. Stat. §71-4603 (Cum.Supp.2002), a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which unit either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicle includes, but is not limited to, travel trailer, park trailer, camping trailer, truck camper, motor home, and van conversion, as defined in Neb. Rev. Stat. §71-4603.
- 2.02.217 **RECREATIONAL VEHICLE PARK** shall mean a tract of land upon which two (2) or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.
- 2.02.218 **RECYCLING CENTER** shall mean a facility which accepts salvage material limited to paper, aluminum, glass, plastic, metal, and similar household wastes, provided, however, that no hazardous materials, as defined by state and federal laws shall be accepted, and no wrecking or dismantling of salvage material occurs, and no outside storage of recycled material is held outside of a building.



- 2.02.219 **REPAIR GARAGE** shall mean a building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work, and may be affiliated with a gas station. (Also, see Gas Station.)
- 2.02.220 **RESTAURANT** shall mean a public eating establishment operated for profit at which the primary function is the preparation and serving of food primarily to persons seated within the building.
- 2.02.221 **RESTAURANT, DRIVE-IN** shall mean a restaurant establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.
- 2.02.222 **RESTAURANT, ENTERTAINMENT** shall mean a restaurant establishment where food and drink are prepared, served, and consumed, within a building or structure that integrally includes electronic and mechanical games of skill, simulation, and virtual reality, play areas, video arcades or similar uses, billiards, and other forms of amusement.
- 2.02.223 **RESTAURANT, FAST FOOD** shall mean a restaurant establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carryout, or drive-in; and where food and/or beverages are usually served in paper, plastic, or other disposable containers.
- 2.02.224 **RETAIL TRADE** shall mean selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Businesses engaged in retail trade sell merchandise to the general public or to households for personal consumption.
- 2.02.225 **RETENTION BASIN** shall mean a pond, pool, or basin used for the permanent storage of stormwater runoff.
- 2.02.226 **REVERSE SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.
- 2.02.227 **REZONING** shall mean an amendment to or change in the zoning regulations either to the text or map or both.
- 2.02.228 **REZONING, PIECEMEAL** shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.
- 2.02.229 **RIGHT-OF-WAY** shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.
- 2.02.230 **ROOM** shall mean an unsubdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.
- 2.02.231 **SANITARY LANDFILL** (See Landfill.)

- 2.02.232 **SATELLITE DISH ANTENNA** shall mean a round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves. (Also, see Antenna.)
- 2.02.233 **SELF-SERVICE STORAGE FACILITY** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.
- 2.02.234 **SEMI-NUDE OR SEMI-NUDITY** means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.
- 2.02.235 **SEPTIC SITE** shall mean the area bounded by the dimensions required for the proper location of the septic tank system.
- 2.02.236 **SERVICE STATION** shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.
- 2.02.237 **SETBACK** shall mean the distance that defines the depth of the required front, side, or rear yard of a property. The required setback distance shall be measured along a line perpendicular from the property line of said property.
- 2.02.238 **SHOPPING CENTER** shall mean a group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivery that is separated from customer access, aesthetic considerations, and protection from the elements.
- 2.02.239 **SHOPPING CENTER, STRIP** shall mean a commercial development, usually one store deep, that fronts on a major street for a distance of one City block or more. Includes individual buildings on their own lots, with or without on-site parking and small linear shopping centers with shallow on-site parking in front of the stores.

2.02.240 **SIGHT TRIANGLE** shall mean an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet (2½') and ten feet (10') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, sixty feet (60') in each direction along the centerline of the streets. At the intersection of major or arterial streets, the sixty foot (60') distance shall be increased to ninety feet (90') for each arterial leg of the intersection.



- 2.02.241 **SIGN** shall mean and include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest.
- 2.02.242 **SIGN, CAMPAIGN** shall mean a temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.
- 2.02.243 **SIGN, GROUND** shall mean a sign, other than a Pole Sign, in which the entire bottom in contact with or in close proximity to the ground and is independent of any other structure.
- 2.02.244 **SIGN, INFORMATIVE** shall mean a sign that contains no message other than instruction or direction to the public. Such signs include, but are not limited to identifying rest rooms, public telephones, walkways, entrance and exit drives, freight entrances, and traffic direction.
- 2.02.245 **SIGN, NAMEPLATE** shall mean a sign, located on the premises, indicating the name and address of a building, or the name of the occupant thereof, and the name of a permitted use therein.
- 2.02.246 **SIGN, OFF-SITE ADVERTISING** shall mean a sign used as an outdoor display, regardless of size or shape, for the purpose of making anything known, the origin or place of sale of which is not on the property with such sign.
- 2.02.247 **SIGN, ON-SITE ADVERTISING** shall mean a sign used as an outdoor display, regardless of size or shape, for the purpose of making anything known, the origin or place of sale of which is on the property with such sign.
- 2.02.248 **SIGN, POLE** shall mean a sign that is mounted on a single, freestanding pole or other support so that the bottom edge of the sign face is six feet (6') or more above grade.
- 2.02.249 **SIGN, PROMOTIONAL DEVICE** shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional

device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping shall be considered as a promotional device.

- 2.02.250 **SIGN, REAL ESTATE** shall mean a temporary sign that identifies property or properties that are for sale or lease.
- 2.02.251 **SIGN, ROOF** shall mean a sign erected upon or above a roof structure, whether or not it is wholly supported by the roof structure or another part of the building.
- 2.02.252 **SIGN, WALL** shall mean any sign attached parallel to, but within eight inches of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.
- 2.02.253 **SIMILAR USE** shall mean the use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities.
- 2.02.254 **SITE PLAN** shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.
- 2.02.255 **SLUDGE** shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.
- 2.02.256 **SOLID WASTE** shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.
- 2.02.257 **SPECIFIED ANATOMICAL AREAS** shall mean less than completely and opaquely covered human genitals, pubic region, buttock, and/or female breast below a point immediately above the top of the areola.
- 2.02.258 **SPECIFIED SEXUAL ACTIVITIES** shall mean activities consisting of the following:
- a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts of conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
  - b) Clearly depicted human genitals in the state of sexual stimulation, arousal, tumescence; or
  - c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, masturbation; or
  - d) Fondling or touching of nude human genitals, pubic region, buttocks, female breast(s); or
  - e) Situation involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such persons; or

- f) Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
  - g) Human excretion, urination, menstruation, vaginal, or anal irrigation.
- 2.02.259 **SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an upzoning to a more intensive use classification.
- 2.02.260 **STOCKPILING** shall mean the accumulation of manure in mounds, piles, or other exposed and non-engineered site locations for storage or holding purposes for a period of not more than one (1) year.
- 2.02.261 **STORMWATER DETENTION AREA** shall mean any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof.
- 2.02.262 **STORMWATER MANAGEMENT** shall mean the collecting, conveyance, channeling, holding, retaining, detaining, infiltrating, diverting, treating, or filtering of surface water, or groundwater, and/or runoff, together with applicable managerial (non-structural) measures.
- 2.02.263 **STREET** shall mean a public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in this Regulation.
- 2.02.264 **STREET, ARTERIAL** shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a City or county with controlled access to abutting property.
- 2.02.265 **STREET, COLLECTOR** shall mean a street or highway, which is intended to carry traffic from minor streets to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.
- 2.02.266 **STREET, CURVILINEAR** shall mean local streets that deviate from straight alignment and change direction without sharp corners or bends.
- 2.02.267 **STREET, FRONTAGE** shall mean a street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties, and being separated from the major street by a dividing strip.
- 2.02.268 **STREET, LOCAL** shall mean a street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.
- 2.02.269 **STREET, LOOPED** shall mean a continuous local street without intersecting streets and having its two (2) outlets connected to the same street.
- 2.02.270 **STREET, PRIVATE** shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties.
- 2.02.271 **STREET CENTERLINE** shall mean the centerline of a street right-of-way as established by official surveys or as platted on an official map of the City.

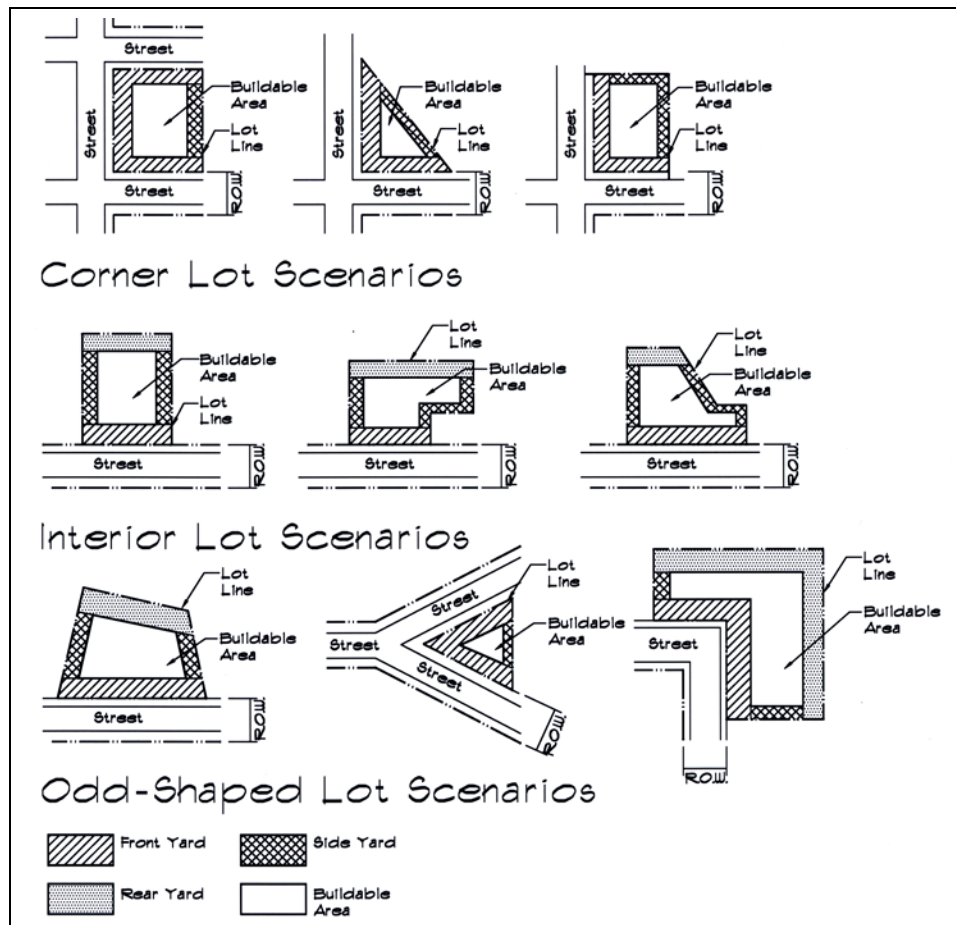
- 2.02.272 **STREET FRONTAGE** shall mean the distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.
- 2.02.273 **STREETSCAPE** shall mean the scene as may be observed along a public street or way composed of natural and man-made components, including buildings, paving, plantings, street hardware, and miscellaneous structures.
- 2.02.274 **STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is connected to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.
- 2.02.275 **STRUCTURAL ALTERATION** shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.
- 2.02.276 **SUBDIVISION** shall mean the division of land, lot, tract, or parcel into two (2) or more lots, sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future, provided that the smallest lot created by the division is less than ten (10) acres in size.
- 2.02.277 **SUBDIVISION AGREEMENT** shall mean a contractual guarantee by a developer of a subdivision to ensure that all improvements, facilities, or work required by this Ordinance and shown on an approved Final Plat will be completed in compliance with these regulations as well as with approved Final Plat plans and specifications.
- 2.02.278 **TEMPORARY USE** shall mean a use intended for limited duration to be located in a zoning district not permitting such use.
- 2.02.279 **TRACT** shall mean a lot or contiguous group of lots in single ownership or under single control, usually considered a unit for purposes of development.
- 2.02.280 **TRUCK REPAIR** shall mean the repair, including major mechanical and body work, straightening of body parts, painting, welding, or other work that may include noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations, of trucks having a hauling capacity of over one (1) ton and buses but excluding pickups and other vehicles designed for the transport of under eight (8) passengers.
- 2.02.281 **TRUCK TERMINAL:** A truck terminal is where goods are transferred between trucks, trucks and railroads, or trucks and ports, and includes all maintenance and office facilities and all land used by a commercial transportation company.
- 2.02.282 **TRUCK WASH** shall mean a mechanical facility for the washing, waxing and vacuuming of heavy trucks and buses.
- 2.02.283 **UPZONING** shall mean a change in zoning classification of land to a more intensive or less restrictive district such as from residential district to commercial district or from a single family residential district to a multiple family residential district.

- 2.02.284 **USE** shall mean the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.
- 2.02.285 **USE, ACCESSORY** shall mean a use which is customarily incidental, related, appropriate and clearly subordinate to the principal use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district. Accessory uses include, but are not limited to satellite dish antennas, swimming pools, and amateur radio towers less than one-hundred feet (100') in height.
- 2.02.286 **USE, BEST** shall mean the recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes health, safety and general welfare.
- 2.02.287 **USE, CONDITIONAL** shall mean a use permitted in a particular zoning district upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in the zoning ordinance and authorized by the approving agency.
- 2.02.288 **USE, HIGHEST** shall mean an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.
- 2.02.289 **USE, PRINCIPAL or PRIMARY** shall mean the main use of land or structure, as distinguished from an accessory use.
- 2.02.290 **USED MATERIALS YARD** shall mean any lot or a portion of any lot used for the storage of used materials, but excluding "Automobile Wrecking Yards".
- 2.02.291 **UTILITY SERVICE** shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil and communications into a building or development.
- 2.02.292 **VARIANCE** shall mean a relief from or variation of the provisions of this Ordinance, other than use regulations, as applied to a specific piece of property, as distinct from rezoning. A Variance shall only be granted by the Tekamah Board of Adjustment, pursuant to the requirements of state law.
- 2.02.293 **VISUAL OBSTRUCTION** shall mean any fence, hedge, tree, shrub, wall or structure which limits the visibility of persons in motor vehicles on streets, alleys, or driveways. (Also, see Sight Triangle).
- 2.02.294 **WATERCOURSE** shall mean natural or once naturally flowing water, either perennially or intermittently, including rivers, streams, creeks, and other natural waterways. Includes waterways that have been channelized, but does not include drainageways, manmade channels, ditches, and underground drainage and sewage systems.
- 2.02.295 **WETLAND** shall mean an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.
- 2.02.296 **WETLAND, SALINE** shall mean an area that is saturated by salty soils and water at a frequency and duration sufficient to support, and that, under normal

circumstances, does support a prevalence of salt-tolerant vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.

- 2.02.297 **WHOLESALE ESTABLISHMENT** shall mean an establishment for the on-premises sale of goods primarily to customers engaged in the business of reselling the goods.
- 2.02.298 **WHOLESALE TRADE** shall mean selling merchandise to retailers; industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or buyers acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. Other functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.
- 2.02.299 **YARD** shall mean any required open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation.





- 2.02.300 **YARD, FRONT** shall mean a space between the front wall or face of a building and the front lot line or right-of-way line, and extending the full width of the lot.
- 2.02.301 **YARD, REAR** shall mean a space between the rear wall or face of a building and the rear lot line, extending the full width of the lot.
- 2.02.302 **YARD, REQUIRED** shall mean the required minimum open space between the property line and the corresponding setback line for the yard.
- 2.02.303 **YARD, SIDE** shall mean a space extending from the front yard, or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the wall or face of a building.
- 2.02.304 **ZONING ADMINISTRATOR** shall mean the person or persons authorized and empowered by the City to administer and enforce the requirements of this chapter.
- 2.02.305 **ZONING DISTRICT** shall mean an area, as delineated on the Official Zoning Map of Tekamah, Nebraska, for which uniform use regulations are specified.
- 2.02.306 **ZONING PERMIT** shall mean any permit required by the City of Tekamah and issued by the Zoning Administrator, to be obtained by any person engaged in any activity governed by the regulations set forth in this Ordinance.

## ARTICLE 3: DISTRICTS AND OFFICIAL MAP

### Section 3.01 Districts

In order to regulate and restrict the height, location, size and type of buildings, structures and uses allowed on land in the City and the area within one (1) mile of the corporate boundaries, the City is hereby divided into districts.

### Section 3.02 Provision for Official Zoning Map

3.02.01 The City is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.02 of Ordinance No. \*\*\*(\*\*date\*\*\*) of the City of Tekamah, Nebraska", together with the date of the adoption of this Ordinance. If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council.

3.02.02 In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted \*\*\* (Ordinance No. \*\*\*) of the City of Tekamah Nebraska." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

## ARTICLE 4: GENERAL PROVISIONS

### Section 4.01 Planning Commission Recommendations

Pursuant to Neb. Rev. Stat. §19-901 (R.R.S.1996), it shall be the purpose of the Planning Commission to hold public hearings upon, and make recommendation to the legislative body, regarding proposed amendments to the comprehensive plan and zoning regulations within the jurisdiction of the City.

The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the City Council shall not hold its public hearings or take action until it has received the final report of the Commission.

### Section 4.02 District Regulations, Restrictions, Boundary Creation

No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the City at least one (1) time ten (10) days prior to such hearing.

### Section 4.03 Jurisdiction

The provisions of this Ordinance shall apply within the corporate limits of the City of Tekamah, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of one (1) mile, as established on the map entitled "The Official Zoning Map of the City of Tekamah, Nebraska", and as may be amended by subsequent annexation.

### Section 4.04 Provisions of Ordinance are Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance are in conflict with the provisions of any other ordinance or municipal law, the ordinance or municipal law with the most restrictive provisions shall govern.

### Section 4.05 Zoning Affects Every Building and Use

No building or land shall hereafter be used or reused and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except that any structure damaged or destroyed may be restored if such structure does not involve a non-conforming use.

### Section 4.06 Lot

4.06.01 Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on only one lot or lot of record and in no case shall there be more than one (1) principal building on a lot unless otherwise provided.

4.06.02 In the case of an agricultural use, a single-family residence shall be considered a principal building, and all other buildings shall be considered accessory buildings.

4.06.03 More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the City Council:

1. Institutional buildings.
2. Public or semi-public buildings.
3. Multiple-family dwellings.
4. Commercial or industrial buildings.
5. Home for the aged.
6. Farmstead

**Section 4.07                    Reductions in Lot Area Prohibited**

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

**Section 4.08                    Obstructions at Street Intersections Prohibited**

On a corner lot, within the area formed by the center line of streets at a distance of sixty feet (60') from their intersections, there shall be no obstruction to vision between a height of two and one-half feet (2 ½') and a height of ten feet (10') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. At the intersection of major or arterial streets, the sixty feet (60') distance shall be increased to ninety feet (90') for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall. See "Sight Triangle," as defined in Article 2 of this Ordinance.

**Section 4.09                    Yard Requirements**

- 4.09.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- 4.09.02 All accessory buildings that are attached to principal buildings (i.e., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 4.09.03 The Zoning Administrator may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1.) more than forty percent (40%) of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and 2.) a minority of such structures have observed or conformed to an average setback line.
- 4.09.04 Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall contain landscaping and planting suitable to provide effective screening.
- 4.09.05 Any yard for a commercial or industrial use located within any C2 Commercial or I1 Industrial Zoning District which is adjacent to any residential use or district shall contain landscaping and planting suitable to provide effective screening. The screening shall consist of a solid or semi-solid fence or wall at least six feet (6'), but not more than eight feet (8') high. Where the adjacent residential district and C2 Commercial or I1 Industrial district are separated by a street right-of-way, no screening shall be required. The owner or owners of the property in the C2 Commercial and/or I1 Industrial District shall maintain said fence or wall in good condition. Said fencing shall be constructed of commercially available fencing.

**Section 4.10                    Drainage**

No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or

otherwise change the existing drainage situation shall be responsible for providing to the City or it's designated agent that such changes will not be a detriment to the neighboring lands.

#### **Section 4.11 Permitted Obstructions in Required Yards**

The following shall not be considered to be obstructions when located in the required yards:

- 4.11.01 *All Yards:* Steps and accessibility ramps used for wheelchair and other assisting devices which are five feet (5') or less above grade which will not exceed minimum requirements of the Americans with Disabilities Act and are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys projecting twenty-four inches (24") or less into the yard; recreational equipment and clothes lines; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners, and satellite dishes that measure eighteen inches (18") or less in diameter projecting not more than eighteen inches (18") into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards.
- 4.11.02 *Front Yards:* Bay windows projecting three feet (3') or less into the yard are permitted.
- 4.11.03 *Rear and Side Yards:* Open off-street parking spaces or outside elements of central air conditioning systems.
- 4.11.04 *Double Frontage Lots:* The required front yard shall be provided on each street.
- 4.11.05 *Building Groupings:* For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one (1) building occupying one (1) lot.

#### **Section 4.12 Accessory Buildings**

- 4.12.01 Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property, or the users thereof, and shall be on the premises of the main use.
- 4.12.02 Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten (10) feet.
- 4.12.03 Garages and outbuildings in residential districts for storage uses and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction. Steel roofs and sidewalls are allowed, but must be at least twenty-eight (28) gauge steel. The sidewalls of said buildings shall not exceed ten (10) feet in height.

#### **Section 4.13 Permitted Modifications of Height Regulations**

- 4.13.01 The height limitations of this Ordinance shall not apply to spires, belfries, cupolas, antennas (not including broadcasting towers), water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy, and agricultural structures, provided, however, that the appropriate yard setbacks are increased by one foot (1') for every two feet (2') in excess of the maximum height requirement for the given zoning district.

- 4.13.02 When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding seventy-five feet (75') when each required yard line is increased by at least one foot (1') for each one foot (1') of additional building height above the height regulations for the district in which the building is located.

**Section 4.14 Occupancy of Basements and Cellars**

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed and any required emergency egress requirements of the Building Code of the City of Tekamah have been complied with. Further an earth home shall not be occupied for residential purposes until the building has been substantially completed and any required emergency egress requirements of the Building Code of the City of Tekamah have been complied with.

**Section 4.15 Non-Conforming, General Intent**

It is the intent of this ordinance to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title.

**Section 4.16 Nonconforming Lots of Record**

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provision of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; that such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful; that such lot has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous ordinance would have prohibited creation of such lot. Variance of area, width and yard requirements shall be obtained only through action of the board of adjustment.

**Section 4.17 Nonconforming Structures**

4.17.01 *Authority to continue:* Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.

4.17.02 *Enlargement, Repair, Alterations:* Any such structure described in Section 4.17.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.

4.17.03 *Damage or Destruction:* In the event that any structure described in Section 4.17.01 is damaged or destroyed, by any means, to the extent of more than seventy-five percent (75%) of its structural value, such structure shall not be restored unless it shall

thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.16, shall not have a side yard of less than five feet (5'). When a structure is damaged to the extent of less than seventy-five percent (75%) of its structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one (1) year after the date of such partial destruction and is diligently pursued to completion.

- 4.17.04 *Moving*: No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

## **Section 4.18 Nonconforming Uses**

- 4.18.01 *Nonconforming Uses of Land*: Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
3. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

- 4.18.02 *Nonconforming Uses of Structures*: If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the board of adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of adjustment may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) months, the structure or structure and

premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;

6. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
7. No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease, terminate, or otherwise become conforming.

#### **Section 4.19 Repairs and Maintenance**

4.19.01 On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this ordinance shall not be increased.

4.19.02 Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

#### **Section 4.20 Uses under Special Permit not Nonconforming Uses**

Any use for which a special permit is issued as provided in this ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

#### **Section 4.21 Uses under Special Permit not Nonconforming Uses**

The purpose of overlay districts as used within this Ordinance is to provide some flexibility in the variety of uses allowed within Tekamah. Once an overlay district is applied to an existing zoning district, the overlay district functions to apply another set of regulations to that district. The regulations of the underlying zoning district as still applicable, and any regulations contained within the overlay district are additional. Any person wishing to avail themselves of the benefits of an overlay district must make an application to the Zoning Administrator. The use of an overlay district must be approved by the City Council after recommendation by the Planning Commission, and public hearings and proper notice by both.

#### **Section 4.22 Fees**

The payment of any and all fees for any zoning or subdivision related action or permit request shall be required prior to the issuance or investigation of any said action or permit request. Such fees shall be adopted and published by the City Council by separate Ordinance.



## ARTICLE 5: ZONING DISTRICTS

### Section 5.01 Districts; Use

For the purpose of this Chapter, Tekamah is hereby divided into eight (8) districts, designated as follows:

- (AG) Agriculture
- (TA) Transitional Agriculture
- (R-1) Single-Family Residential
- (R-2) Multiple-Family Residential
- (C-1) General Commercial
- (C-2) Highway Commercial
- (I-1) Light Industrial
- (RM) Mobile Home Residential (overlay)
- (G) Gateway Corridor Protection (overlay)

### Section 5.02 Districts; Boundaries

The boundaries of the districts are hereby established as shown on the maps entitled "Official Zoning Map of the City of Tekamah, Nebraska." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Chapter as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Mayor, and attested by the City Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this Chapter. Such changes shall be promptly indicated on the Zoning District Map with the Ordinance number, nature of change, and date of change noted on the map.

### Section 5.03 Rules for Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- 5.03.01 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- 5.03.02 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- 5.03.03 Boundaries indicated as approximately following City limits shall be construed as following such City limits;
- 5.03.04 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- 5.03.05 Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- 5.03.06 Boundaries indicated as parallel to or extensions of features indicated in subsections 5.03.01 to 5.03.05 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- 5.03.07 Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 5.03.01 to 5.03.06 above, the Board of Zoning Adjustment shall interpret the district boundaries;

5.03.08 Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, The Board of Zoning Adjustment may permit the extension of the regulations for either portion of the lot not to exceed fifty feet (50') beyond the district line into the remaining portion of the lot.

**Section 5.04 Annexation and Conformance with the Land Use Plan**

Areas annexed into the corporate limits of Tekamah shall be zoned, as soon thereafter as practicable, to conform to the Land Use Plan.

## Section 5.05           AG Agriculture District

5.05.01           *Intent:* The Agriculture District is established for the purpose of preserving agricultural resources that are compatible with adjacent urban growth. It is not intended for commercial feedlot operations for livestock or poultry. Because the areas are not in the identified growth areas for the community, the district is designed to limit urban sprawl.

5.05.02           *Permitted Uses:*

1. Farms for crops, pasturing, orchards, greenhouses and nurseries, including the sale and distribution of agricultural products, excluding the sale and distribution of chemicals.
2. Farms for breeding, raising, and displaying of wild game, fish and excluding livestock feeding operations.
3. Farmstead.
4. Churches.
5. Public services, including fire and police department facilities.
6. Public parks and recreation areas, playgrounds and conservation areas including irrigation and flood control projects.
7. Publicly owned and operated buildings and facilities.
8. Public and private schools.
9. Single family dwelling

5.05.03           *Conditional uses:*

1. Livestock Feeding Operations.
2. Farm implement and machinery sales, service, and repair.
3. Private schools, including nursery, pre-kindergarten, play, and special schools.
4. Private clubs or organizations not operated for profit.
5. Public overhead and underground local distribution utilities.
6. Wastewater treatment facilities.
7. Forests and Conservation Areas.
8. Cemeteries or mausoleums, provided all structures are located at least one hundred (100) feet from all property lines.
9. Commercial recreation areas and facilities, such as swimming pools, fishing lakes, gun clubs, and camp grounds.
10. Airports and heliports.
11. Child Care Home.
12. Child Care Center.
13. Auction sales.
14. Boarding and commercial kennels.
15. Veterinarians' offices and hospitals.
16. Buildings and facilities for the raising and care of animals for 4-H, Future Farmer of America (FFA) or other rural/school organizations.
17. Wind energy systems, pursuant to Section 7.15.
18. Truck wash facilities.
19. Self-storage warehouses
20. Self Storage units
21. Grain Storage Facility

5.05.04           *Permitted Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Home occupations, pursuant to Section 7.09.
3. Roadside stands for sale of agricultural produce.
4. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.

5. Signs pursuant to Sections 7.06 through 7.09.
6. Parking pursuant to Sections 7.01 through 7.05.
7. Fences pursuant to Section 7.11.

5.05.05 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Farm	10 acres	-	*	*	*	-	-
Storage Barns associated with a Farm	-	-	100'	25'	10'	-	-
Other Permitted Uses	3 acres	150'	30'	25'	35'	35'	-
Single-Family Dwelling w/private sewer or water	3 acres	150'	30'	25'	35'	35'	-
Single-Family Dwelling w/public sewer and water	1.5 acres	150'	30'	25'	35'	35'	-
Broadcasting Tower (Also see Section 7.10)	10,000 sq. ft.	100'	-	-	-	-	-
Other Permitted Conditional Uses	10 acres	250'	30'	25'	35'	45'	-
Accessory Uses	-	-	30'	25'	10'	17'	-

\* When abutting a State Highway or County Road, setback shall be thirty three feet (33') from the road right-of-way.

**Section 5.06 TA Transitional Agriculture District**

5.06.01 *Intent:* The Transitional Agriculture District is intended to permit low-intensity agricultural uses within the corporate limits of Tekamah.

5.06.02 *Permitted Uses:*  
 1. Single family dwelling.

5.06.03 *Conditional uses:*  
 1. Farms for crops, pasturing, orchards, greenhouses and nurseries, including the sale and distribution of agricultural products, excluding the sale and distribution of chemicals.  
 2. Farms for breeding, raising, and selling livestock, provided that no livestock feedlot or yard for more than two (2) horses, one (1) cow with calf, or four (4) sheep or goats shall be established.

5.06.04 *Accessory Uses:*  
 1. Buildings and uses customarily incidental to the permitted uses.  
 2. Home occupations, pursuant to Section 7.09.  
 3. Temporary buildings incidental to construction work where such building or structures are removed upon completion of work.  
 4. Signs pursuant to Sections 7.06 through 7.09.  
 5. Parking for permitted uses pursuant to Sections 7.01 through 7.05.  
 6. Fences pursuant to Section 7.11.

5.06.05 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Conditional Uses	3 acres	150'	30'	7'	30'	35'	-
Accessory Uses	-	-	30'	7'	10'	21'	*

*\*Provided that for a lot or contiguous lots or parcels under single ownership of three (3) acres and up to five (5) acres the total area of all accessory buildings shall not exceed two thousand four hundred (2,400) square feet, and for a lot or contiguous lots or parcels under single ownership of more than five (5) acres the total area of all accessory buildings shall not exceed three thousand two hundred (3,200) square feet.*

**Section 5.07 R-1 Single-Family Residential District**

5.07.01 *Intent:* The Single-Family Residential District is intended to permit low-density residential developments to accommodate residential and other compatible uses.

- 5.07.02 *Permitted Uses:*
1. Single family dwellings.
  2. Child care home.

- 5.07.03 *Conditional uses:*
1. Single-family attached dwellings.
  2. Two-family dwellings.
  3. Churches, temples, seminaries and convents, including residences for teachers and pastors.
  4. Child care center.
  5. Educational, religious, or philanthropic institutions.
  6. Nursery, primary, and secondary schools.
  7. Medical clinics.
  8. Public and private recreation areas, such as, country clubs, golf courses, open common areas and swimming pools.
  9. Publicly owned and operated buildings and facilities, such as parks, community centers, libraries, or museums.
  10. Public utility substations, distribution centers, regulator stations, pumping stations, water reservoirs, and telephone exchanges.
  11. Private clubs or organizations not operated for profit.
  12. Funeral homes and mortuaries.
  13. Nursing and retirement homes.
  14. Bed and Breakfast establishments.

- 5.07.04 *Accessory Uses:*
1. Buildings and uses customarily incidental to the permitted uses.
  2. Home occupations, pursuant to Section 7.09.
  3. Temporary buildings incidental to construction work where such building or structures are removed upon completion of work.
  4. Signs pursuant to Sections 7.06 through 7.09.
  5. Parking for permitted uses pursuant to Sections 7.01 through 7.05.
  6. Fences pursuant to Section 7.11.

5.07.05 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

Use	Lot Area (sq. ft.)	Lot Width	Front Yard	Side Yard**	Rear Yard	Max. Height	Max. Lot Coverage
Single Family Residential	9,750	75'	30'	7'	30'	35'	35%
Single Family Attached Residential* (per unit)	4,500	40'	30'	7'	30'	35'	35%
Two Family Residential	9,750	75'	30'	7'	30'	35'	35%
Other Permitted Uses	10,500	75'	30'	7'	30'	35'	35%
Permitted Conditional Uses	10,500	75'	30'	7'	30'	35'	35%
Accessory Uses	-	-	30'	7'	10**	17'	11.4%***

\* The common wall shall have a zero lot line setback and shall be located on the property line separating both dwellings.  
 \*\* Unless adjacent to an existing Commercial or Industrial use, then the setback shall be twenty five feet (25').  
 \*\*\* Provided total area of accessory structure for single family does not exceed twelve-hundred (1200) square feet and the total lot coverage of all buildings does not exceed fifty percent (50%).

## Section 5.08 R-2 Multiple-Family Residential District

5.08.01 *Intent:* The purpose of the Multiple-Family Residential District is to permit single-family residences at a medium density with an increase of density to include duplexes and similar residential development in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

5.08.02 *Permitted Uses:*

1. Single family dwelling.
2. Single-family attached dwelling.
3. Two-family dwelling.
4. Multiple-family dwelling.
5. Child care home.

5.08.03 *Conditional uses:*

1. Child Care Center.
2. Churches, temples, seminaries and convents, including residences for teachers and pastors.
3. Educational, religious, or philanthropic institutions.
4. Nursery, primary, and secondary schools.
5. Medical clinics.
6. Public and private recreation areas, such as, country clubs, golf courses, open common areas and swimming pools.
7. Publicly owned and operated buildings and facilities, such as parks, community centers, libraries, or museums.
8. Public utility substations, distribution centers, regulator stations, pumping stations, water reservoirs, and telephone exchanges.
9. Private clubs or organizations not operated for profit.
10. Funeral homes and mortuaries.
11. Nursing and retirement homes.
12. Boarding or rooming house.
13. Hospitals, sanitariums, rest homes, nursing homes, elderly or retirement housing, convalescent homes, other similar institutions, or philanthropic institutions.

5.08.04 *Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses.
2. Home occupations, pursuant to Section 7.09.
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
4. Signs pursuant to Sections 7.06 through 7.09.
5. Parking pursuant to Sections 7.01 through 7.05.
6. Fences pursuant to Section 7.11.

5.08.05 *Height and Lot Requirements:* The height and minimum lot requirements shall be follows:

Use	Lot Area (sq. ft.)	Lot Width	Front Yard	Side Yard**	Rear Yard**	Max. Height	Max. Lot Coverage
Single Family Residential	7,000	50'	25'	5'	15'	35'	40%
Single Family Attached Residential* (per unit)	4,000	35'	25'	5'	15'	35'	40%
Two Family Residential	7,000	50'	25'	5'	15'	35'	40%
Multiple Family Residential	2,200 per unit	50'	25'	5'	15'	35'	40%
Other Permitted Uses	8,000	60'	25'	5'	15'	35'	40%
Permitted Conditional Uses	8,000	60'	25'	5'	15'	35'	40%
Accessory Uses	-	-	25'	5'	10'	17'	11.4%***

\* The common wall shall have a zero lot line setback and shall be located on the property line separating both dwellings.

\*\* Unless adjacent to an existing Commercial or Industrial use, then the setback shall be twenty five feet (25').

\*\*\* Provided total area of accessory structure for single family does not exceed twelve-hundred (1200) square feet and the total lot coverage of all buildings does not exceed fifty percent (50%).



## Section 5.09

### C-1 General Commercial District

5.09.01 *Intent:* The General Commercial District is intended to establish standards that will foster and maintain a commercial area within Tekamah that will benefit the retail trade, business, cultural, and social activities of the entire community.

5.09.02 *Permitted Uses:*

1. Business services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services; but not including uses defined in Adult Establishment.
2. Retail business or service establishments supplying commodities or performing services, such as, or in compatibility with and including the following, but not including uses defined in Adult Establishment:
  - A. Antique sales establishments.
  - B. Car wash facilities.
  - C. Bakery.
  - D. Barber shops and beauty parlors.
  - E. Bicycle shop.
  - F. Child care centers.
  - G. Commercial recreation facilities, including bowling alley, indoor theater, miniature golf courses, indoor driving ranges or other such entertainment establishment, not including uses defined under “Adult Establishment,” provided any such building is located at least one hundred feet (100’) away from any Residential District boundary.
  - H. Computer sales and repair store.
  - I. Detached banking facility (ATM).
  - J. Dry cleaning or laundry establishments.
  - K. Floral shop.
  - L. Hobby, craft, toy, gift or curio shop.
  - M. Jewelry store.
  - N. Restaurants, nightclubs, cafes, and taverns.
  - O. Medical Clinics.
  - P. Mortuaries, and funeral homes.
  - Q. Locksmith.
  - R. Messenger and telegraph stations.
  - S. Museums and art galleries.
  - T. Photography studios.
  - U. Professional offices.
  - V. Private schools such as dance, music, business or commercial schools.
  - W. Business offices.
  - X. Second hand stores.
  - Y. Service Stations and convenience stores with limited fuel sales.
  - Z. Private clubs and lodges, not including uses defined under “Adult Establishment.”
  - AA. Public utilities and railroad facilities.
  - BB. Public buildings and services.
  - CC. Churches, temples, and synagogues
  - DD. Exercise, fitness and tanning spas.

5.09.03 *Conditional uses:*

1. Multi-family dwelling units located in the second story.
2. Single-family dwelling, provided they meet the lot requirements of the R-2 District.
3. Parking lots, parking garages and other off-street parking facilities.

4. Outdoor advertising structures.
5. Self-storage facilities.
6. Automobile service and repair shops, except auto body repair.
7. Lumber yards, hardware stores, building material sales yards, and garden centers.
8. Motels and hotels.
9. Automobile displays and sales.

5.09.04 *Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses.
2. Temporary buildings and uses incidental to construction work that shall be removed upon completion or abandonment of the construction work.
3. Signs pursuant to Sections 7.06 through 7.09.
4. Parking pursuant to Sections 7.01 through 7.05.
5. Fences pursuant to Section 7.11.

5.09.05 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

Use	Lot Area (sq.ft.)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	2,500	25,	-	*	10'	45'	100%
Permitted Conditional Uses	2,500	25,	-	*	10'	45'	100%
Accessory Uses	-	-	-	10'	**	45'	100%

\* None, except that when adjacent to any residential district, the side yard setback shall be ten feet (10').

\*\* None, except that when adjacent to any residential district, the rear yard setback shall be fifteen feet (15'), unless there is an alley between the two, in which case the rear yard setback shall be five feet (5').

5.09.06 *Use Limitations:*

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within fifteen feet (15') of such district.
2. When adjacent to residentially zoned land, new construction must provide a six feet (6') high permanent screen in order to minimize impacts on residentially zoned property.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted, except within an area surrounded by a six feet (6') tall wall or screen.
4. 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.

## Section 5.10

### C-2 Highway Commercial District

5.10.01 *Intent:* The Highway Commercial District is intended to establish standards that will foster and maintain an area along US Highway 75 and Nebraska Highway 32, distinct from commercial areas located within downtown Tekamah. The design standards in this district are designed to promote safe traffic circulation on, off and across the highway, high quality design and site planning, and flexibility in development in order to provide an attractive, viable employment corridor.

5.10.02 *Permitted Uses:*

1. Business services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services; but not including uses defined in Adult Establishment.
2. Antique store.
3. Automobile displays, sales, service, mechanical repair, and auto body shops, provided a six feet (6') high solid privacy fence is installed around outside storage areas.
4. Car wash facilities.
5. Farm implement displays and sales.
6. Commercial greenhouse.
7. Churches and other religious institutions.
8. Construction sales and services, including rental shops.
9. Businesses intended for the purpose of servicing travel and recreational users.
10. Business offices
11. Professional offices
12. Commercial recreation facilities, including bowling alley, indoor theater, miniature golf courses, indoor driving ranges or other such entertainment establishment, not including uses defined under "Adult Establishment," provided any such building is located at least one hundred feet (100') away from any Residential District boundary.
13. Detached banking facility (ATM).
14. Electric and telephone substations.
15. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment.
16. Frozen food lockers and food storage facilities.
17. Furniture warehouses.
18. Laundry pick-up and delivery stations.
19. Lumber yards, hardware stores, building material sales yards, garden centers, and nurseries.
20. Locksmith.
21. Meeting hall, not including uses defined in Adult Establishment.
22. Medical Clinics.
23. Motels and hotels, not including uses defined in Adult Establishment.
24. Photographer and Photography studios.
25. Picture framing shop.
26. Printing shop.
27. Private schools such as dance, music, business or commercial schools.
28. Self-storage facilities.
29. Service Stations and convenience stores with limited fuel sales.
30. Restaurants, cafes and fast food establishment.
31. Second hand stores.
32. Self service laundries.
33. Social club and fraternal organizations, not including uses defined in Adult Establishment.

34. Tanning salon, not including uses defined in Adult Establishment.
35. Telephone answering service.
36. Indoor theater.
37. Public overhead and underground local distribution utilities.
38. Video store, not including uses defined in Adult Establishment.
39. Public utilities, including shops and offices.
40. Public buildings and services.

5.10.03 *Conditional uses:*

- a. Mobile and modular home sales with limited display.
- b. Outdoor advertising signs.
- c. Private clubs and lodges.
- d. Radio stations, including necessary transmitters and antenna.
- e. Recycling centers.
- f. Truck Terminal.
- g. Truck wash facilities.
- h. On Parcels not abutting a state highway the following uses:
  - i. Single family dwelling.
  - j. Single-family attached dwelling.
  - k. Two-family dwelling.
  - l. Multiple-family dwelling.
  - m. Child care home.

5.10.04 *Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses.
2. Temporary buildings and uses incidental to construction work, which will be removed upon completion or abandonment of the construction work.
3. Signs pursuant to Sections 7.06 through 7.09.
4. Parking pursuant to Sections 7.01 through 7.05.
5. Fences pursuant to Section 7.11.

5.10.05 *Height and Lot Requirements:* The height and minimum lot requirements shall be follows:

Use	Lot Area (sq. ft.)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	7,000	75'	25'	*	**	45'	-
Permitted Conditional Uses	7,000	75'	25'	*	**	45'	***
Accessory Uses	-	-	25'	10'	**	45'	-

\* None, except that when adjacent to any residential district, the side yard setback shall be ten feet (10').

\*\* None, except that when adjacent to any residential district, the rear yard setback shall be fifteen feet (15'), unless there is an alley between the two, in which case the rear yard setback shall be five feet (5').

\*\*\* Conditional Residential uses shall comply with R2 height and lot requirements.

5.10.06 *Use Limitations:*

1. When adjacent to any residential district, no parking, drives or signs shall be allowed within fifteen feet (15') of such district.
2. When adjacent to residentially zoned land, new construction must provide a six feet (6') high permanent screen in order to minimize impacts on residentially zoned property.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. 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.

## Section 5.11 I-1 Industrial District

5.11.01 *Intent:* It is the intent of the Industrial District to provide standards for areas suitable for some limited industrial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, that these areas should be served with adequate transportation facilities, and that user of this land conduct activities that create low to moderate hazards to adjacent properties. In addition, all uses allowed in Section 5.09 C-1 General Commercial and Section 5.10 Highway Commercial, shall be permitted in this district, as well as other uses that may be identified in this section.

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

### 5.11.02 *Permitted Uses:*

1. Adult Entertainment establishments shall conform to the regulations in Section 7.17
2. Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials.
3. Auto body repair shops.
4. Bottling work.
5. Building materials yards with enclosed and screened storage areas, except for ready-mix concrete plants and similar uses that emit particulate matter, smoke, or odor.
6. Carpentry, plumbing, cabinet, or sheet metal shops.
7. Facilities for the commercial storage or sale of fertilizer or flammable agricultural chemicals, not including toxic chemicals.
8. Freight and truck terminals.
9. Construction and heavy equipment sales and service.
10. Dying and cleaning establishments.
11. Farm and industrial equipment sales and service.
12. Frozen food lockers.
13. Highway maintenance yards or buildings.
14. Machine shop or metal working excluding drop hammers and other noise producing tools.
15. Manufacture and assembly of electrical and electronic appliances.
16. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.
17. Mobile and modular home sales and manufacturing.
18. Printing and publishing business.
19. Self-storage units.
20. Stone and monument works.
21. Transportation warehousing.
22. Public utility substations, pumping stations, and water reservoirs.
23. Warehouses and wholesale businesses.

### 5.11.03 *Conditional uses:*

1. Coal or coke yard.
2. Concrete or cement product manufacturing.
3. Fertilizer plants.
4. Grain storage bins and elevators.
5. Live-in quarters used by live-in watchman or custodians during periods of construction or when necessary as an accessory to permitted use.

6. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs.
7. Perimeter security fencing above six (6) feet in height.
8. Broadcast towers, pursuant to Section 7.10.
9. Research facilities and laboratories.
10. Truck terminal.
11. Truck wash facilities.
12. Fuel storage.
13. Ethanol or alcohol plant.
14. Automobile salvage yard provided all vehicles are kept in an enclosed and screened area.
15. Recycling center.

5.11.04 *Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses.
2. Temporary buildings and uses incidental to construction work that will be removed upon completion or abandonment of the construction work.
3. Signs pursuant to Sections 7.06 through 7.09.
4. Parking pursuant to Sections 7.01 through 7.05.
5. Fences pursuant to Section 7.11.

5.11.05 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

Use	Lot Area (sq. ft.)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	-	100'	35'	(1)	45'	45'/65' (2) (3)	-
Permitted Conditional Uses	-	100'	35'	(1)	45'	45'/65' (2)(3)	-
Accessory Uses	-	-	35'	(1)	35'	45'/65' (2)(3)	-

- (1) None, except that when adjacent to any residential district, the side yard setback shall be ten feet (10').  
 (2) Maximum height may exceed 65' with a Conditional Use Permit.  
 (3) If adjacent to a residentially zoned district, the maximum height shall be 45'.

5.11.06 *Use Limitations:*

1. The maximum height requirement may be exceeded, provided the setback is increased by one foot (1') for every one foot (1') increase in building height.
2. When adjacent to residentially zoned land, no parking, driveways or signs shall be allowed in the required front yard within fifteen feet (15') of said residential district.
3. When adjacent to residentially zoned land, new construction must provide a six feet (6') high permanent screen in order to minimize impacts on residentially zoned property.
4. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
5. 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.

5.11.07 *Performance Standards:* See Section 7.12 of the Supplemental Regulations.

## Section 5.12 RM Mobile Home Residential District (*Overlay District*)

5.12.01 *Intent:* The intent of the Mobile Home Residential District shall be to provide for mobile home dwellings on leased or owned property in areas where a mobile home court is appropriate and where such development is recognized as being in the best interests of Tekamah.

5.12.02 *Permitted Uses.*

1. Mobile home dwelling.
2. Single family dwelling.
3. On-site advertising sign.

5.12.03 *Conditional uses.*

1. Child Care Home.

5.12.04 *Accessory Uses.*

1. Buildings and uses customarily incidental to the permitted uses.
2. Home occupation, pursuant to Section 7.09.
3. Fences as provided for in Section 7.11.
4. Parking pursuant to Sections 7.01 through 7.05.
5. Temporary buildings and uses incidental to construction work which will be removed upon completion or abandonment of the construction work.

5.12.05 *Area and Lot Requirements.*

1. A mobile home park shall have an area of not less than five (5) acres. The setback on all court property lines shall be twenty-five (25) feet. The minimum lot width for a mobile home court shall be two hundred (200) feet.
2. The minimum lot width shall be fifty (50) feet for an interior lot, eighty (80) feet for a corner lot, or forty-five (45) feet when facing a cul-de-sac turnaround or curve on a minor loop street. Each individual lot shall have:
  - A. Side yards shall not be less than eight (8) feet on one side and not less than eight (8) feet on the other side, except that on corner lots, the setback for all buildings shall be a minimum of thirty (30) feet on the side abutting a street/road.
  - B. Front yard of not less than thirty (30) feet.
  - C. A rear yard of not less than twenty-five (25) feet.
  - D. The minimum lot area for each lot shall be five thousand (5,000) square feet.
3. There shall be a minimum livable floor area of five hundred (500) square feet in each mobile home.
4. The height of buildings shall be as follows:
  - A. Maximum height for principal uses: thirty-five (35) feet.
  - B. Maximum height for accessory uses: twenty (20) feet.
5. Each lot shall have access to a hard surfaced drive not less than twenty-two (22) feet in width excluding parking.
6. Community water and community sewage disposal facilities shall be provided with connections to each lot. The water supply shall be sufficient for domestic use and for fire protection.
7. Service buildings including adequate laundry and drying facilities, and toilet facilities for mobile homes which do not have these facilities within each unit.
8. Not less than 8% of the total court area shall be designated and used for park, playground and recreational purposes.
9. Storm shelters shall be required and shall meet the following criteria:
  - a). Shelter space equivalent to two (2) persons per mobile home lot,

- b). Designed in conformance with “National Performance Criteria for Tornado Shelters” by the Federal Emergency Management Agency (FEMA) and any other referenced material by FEMA,
  - c). Shelters shall be sited in order to provide maximum protection to park occupants and so that residents may reach a shelter within the maximum safe time frame as directed by FEMA.
10. All trailer pad locations shall be hard surfaced with properly reinforced poured in place concrete, setting on a permanent foundation.
  11. All trailers shall have skirting which is in good repair, meets manufacturer standards, and is in conformance with the color scheme of the trailer.
  12. All trailers shall be anchored to the ground so as to withstand a one-hundred mile per hour (100 mph) wind shear.

5.12.06 *Plan Requirements.*

One original and fifteen (15) copies of a Mobile Home Park plan shall be submitted along with the application for zoning permit, showing:

1. A development plan and grading plan of the court, drawn to a scale of not less than 1”=100’.
2. The area and dimensions of the tract of land.
3. The number, location, and size of all mobile home spaces.
4. The area and dimensions of the park, playground and recreation areas.
5. The location and width of roadways and walkways.
6. The location of service buildings and any other proposed structures.
7. The location of water and sewer lines and sewage disposal facilities.
8. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home court.
9. Location and number of storm shelters proposed for the development.
10. Specifications, drawings and design calculations for all storm shelters on the park.



## Section 5.13

### G Gateway Corridor Protection District (*Overlay District*)

5.13.01 *Intent:* The City of Tekamah has established basic site development criteria to be implemented within the boundaries of this overlay district. These criteria include, but are not limited to the following: landscaping, signing, lighting, and interior street development. The motivation for regulating these issues is to provide for a cohesive and properly developed entrance into the City of Tekamah. Guiding development in this manner promotes the general health, safety and welfare of the residents within the zoning jurisdiction of the City, by providing quality design and construction, which will also aid in the protection of past and future investment in the corridor.

5.13.02 *Purpose:* The purpose of these criteria is to establish a checklist of those items that affect the physical aspect of Tekamah's environment. Pertinent to appearance is the design of the site, planting, signs, street hardware, and miscellaneous other objects that are observed by the public.

The criteria contained herein are not intended to restrict imagination, innovation or variety, but rather to assist in focusing on design principles that can result in creative solutions that will develop a satisfactory visual appearance within the City, preserve taxable values, and promote the public health, safety and welfare.

5.13.03 *Geographic Area:* The Gateway Corridor Protection District extends generally north and south on US Highway 75, and west along Nebraska Highway 32 within the one-mile extraterritorial jurisdiction of Tekamah.

5.13.04 *Vehicular Circulation:*

1. All development within the district shall have service roads. Highway access shall be minimized.
2. The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting, safe pedestrian movement, and parking areas.
3. Parking areas and traffic ways shall be enhanced with landscaped spaces containing trees or tree groupings.

5.13.05 *Landscape and Site Treatment:*

1. Landscape elements included in these criteria consist of all forms of planting and vegetation, ground forms, rock groupings, water patterns, and all visible construction except buildings and utilitarian structures.
2. Where natural or existing topographic patterns contribute to beauty and utility of a development, they shall be preserved and developed. Modification to topography will be permitted where it contributes to good site design and development.
3. Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments.
4. Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for walking and, if seating is provided, for sitting.
5. Landscape treatments shall be provided to enhance architectural features, strengthen vistas and important axis, and provide shade. Spectacular effects shall be reserved for special locations only.
6. Plant material shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments.
7. The use of walls, fencing, planting, or a combinations thereof shall be used to screen service yards and other places that tend to be unsightly. Screening shall be equally effective in winter and summer.
8. Exterior lighting, when used, shall enhance the building design and the adjoining building and adjacent areas. Lighting shall be restrained in design and excessive

brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas.

9. Developments in the Gateway Protection Corridor shall meet all other applicable screening regulations pursuant to Section 7.14.

5.13.06 *Signs:*

1. Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.
2. Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.
3. The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.
4. The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the area of the sign face.
5. Each sign shall be compatible with signs on adjoining premises and shall not compete for attention.
6. Identification signs of prototype design and corporation logos shall conform to the criteria for all other signs.
7. All signage shall comply with the Sign Regulations found in the Supplemental Regulations, pursuant to Section 7.06 through 7.09.

5.13.07 *Conflicts:*

All conflicts between this Section and the landscaping and sign sections shall be governed by the most restrictive regulation.

## Section 5.14

## Lot and Area Requirements

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
<b>AG Agriculture</b>							
Farm	10 acres	-	(1)	(1)	(1)	-	-
Storage Barns associated with a Farm	-	-	100'	25'	10'	-	-
Other Permitted Uses	3 acres	150'	30'	25'	35'	45"	-
Single-Family Dwelling w/private sewer or water	3 acres	150'	30'	25'	35'	45'	-
Single-Family Dwelling w/public sewer and water	1.5 acres	150'	30'	25'	35'	45'	-
Broadcasting Tower (Also see Section 7.10)	10,000 sq. ft.	100'	-	-	-	-	-
Other Permitted Conditional Uses	10 acres	250'	30'	25'	35'	45'	-
Accessory Uses	-	-	100'	25'	10'	45'	-
<b>TA Transitional Agriculture</b>							
Permitted Conditional Uses	3 acres	150'	30'	7'	30'	45'	-
Accessory Uses	-	-	30'	7'	10'	45'	7
<b>R-1 Single-Family Residential</b>							
Single Family Residential	9750	75'	30'	7' (3)	30'	35'	0.35
Single Family Attached Residential (per unit) (2)	4500	40'	30'	7' (3)	30'	35'	0.35
Two Family Residential	9750	75'	30'	7' (3)	30'	35'	0.35
Other Permitted Uses	10500	75'	30'	7' (3)	30'	35'	0.35
Permitted Conditional Uses	10500	75'	30'	7' (3)	30'	35'	0.35
Accessory Uses	-	-	30'	7' (3)	10' (3)	17'	11.4% (4)
<b>R-2 Multiple-Family Residential</b>							
Single Family Residential	7000	50'	25'	5' (3)	15' (3)	35'	0.4
Single Family Attached Residential (per unit) (2)	4000	35'	25'	5' (3)	15' (3)	35'	0.4
Two Family Residential	7000	50'	25'	5' (3)	15' (3)	35'	0.4
Multiple Family Residential	2,200 per unit	50'	25'	5' (3)	15' (3)	35'	0.4
Other Permitted Uses	8000	60'	25'	5' (3)	15' (3)	35'	0.4
Permitted Conditional Uses	8000	60'	25'	5' (3)	15' (3)	35'	0.4
Accessory Uses	-	-	25'	5' (3)	10' (3)	17'	11.4% (4)
<b>C-1 General Commercial</b>							
Permitted Uses	2,500	25,	-	(5)	10'	45'	100%
Permitted Conditional Uses	2,500	25,	-	(5)	10'	45'	100%
Accessory Uses	-	-	-	(5)	(6)	45'	100%
<b>C-2 Highway Commercial</b>							
Permitted Uses	7,000	75'	25'	(5)	(6)	45'	-
Permitted Conditional Uses	7,000	75'	25'	(5)	(6)	45'	-
Accessory Uses	-	-	25'	(5)	(6)	45'	-
<b>I-1 Industrial</b>							
Permitted Uses	-	100'	35'	(5)	45'	45'/65' (8)(9)	-
Permitted Conditional Uses	-	100'	35'	(5)	45'	45'/65' (8)(9)	-
Accessory Uses	-	-	35'	(5)	35'	45'/65' (8)(9)	-

- (1) When abutting a State Highway or County Road, setback shall be thirty three feet (33') from the road right-of-way.
- (2) The common wall shall have a zero lot line setback and shall be located on the property line separating both dwellings.
- (3) Unless adjacent to an existing Commercial or Industrial use, then the setback shall be twenty five feet (25').
- (4) Provided total area of accessory structure for single family does not exceed twelve hundred (1,200) square feet and the total lot coverage of all buildings does not exceed fifty percent (50%).
- (5) None, except that when adjacent to any residential district, the side yard setback shall be ten feet (10').
- (6) None, except that when adjacent to any residential district, the rear yard setback shall be fifteen feet (15'), unless there is an alley between the two, in which case the rear yard setback shall be five feet (5').
- (7) Provided that for a lot or continuous lots or parcels under single ownership of three (3) acres and up to five (5) acres the total area of all accessory buildings shall not exceed two thousand four hundred (2,400) square feet, and for a lot or contiguous lots or parcels under single ownership of more than five (5) acres the total area of all accessory buildings shall not exceed three thousand two hundred (3,200) square feet.
- (8) Maximum height may exceed 65' with a Conditional Use Permit.
- (9) If adjacent to a residentially zoned district, the maximum height shall be 45'.

**Additional requirements may apply to a Zoning District, please refer to the specific district, the General Requirements and the Supplemental Regulations for more information.**

## Section 5.15 AHO Airport Hazard Overlay District

5.15.01 *Intent:* This district is established as an overlay district for application over any primary zoning district in order to protect the safe use, public investment, and utility of public airports and their Airport Hazard Area, within the city of Tekamah, NE and its extraterritorial zoning jurisdiction, by limiting the location and height of structures within the operation, approach, transition and turning zones around airports which are licensed by the Nebraska Department of Aeronautics, as designated on the Airport Zoning Map prepared by the Nebraska Department of Aeronautics for the Tekamah Municipal Airport (Dwg. No. ZN-TQE-15 dated January 13, 2015)

5.15.02 *Designated Public Airport:* The designated public airport for which these regulations have been prepared is the Tekamah Municipal Airport located in Section 28, Township 21 North, Range 11 East of the 6th P.M., in Burt County which is within the planning and zoning jurisdictional area of Tekamah, Nebraska. Information on the Tekamah Municipal Airport can be obtained from the Nebraska Department of Aeronautics at [www.aero.nebraska.gov](http://www.aero.nebraska.gov) or at [www.aimav.com/airports/](http://www.aimav.com/airports/).

5.15.03 *Definitions:* For purposes of the Airport Hazard Overlay, the following terms are defined:

Airport means an area of land or water that is used or intended to be used for the landing and takeoff of aircraft and includes any related buildings and facilities. Airport includes only public use airports with state or federally approved airport layout plans and military airports with military service-approved military layout plans.

Airport Hazard means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft; or penetrates any approach, operation, transition, or turning zone.

Airport Hazard Area means any area of land or water upon which an airport hazard might be established if not prevented as provided in the Nebraska Airport Zoning Act, but such area shall not extend in any direction a distance in excess of the limits provided for approach, operation, transition, and turning zones.

Airport Layout Plan means a scaled drawing of existing and proposed land, buildings, and facilities necessary for the operation and development of an airport prepared in accordance with state rules and regulations and federal regulations and guidelines.

Approach Zone means a zone that extends from the end of each operation zone and is centered along the extended runway centerlines.

Electric Facility means an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in Section 70-1001 .01, R.R.S. 1943, for the transmission or distribution of electrical power to the electric supplier's customers.

Existing Runway means an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.

Height of Structure means the height of any building, structure or object measured from its highest point to the nearest existing or proposed runway end elevation.

Instrument Runway means an existing runway with precision or nonprecision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or non-precision instrument approaches reflected on the airport layout plan. After the effective date of this zoning regulation, an airport shall not designate an existing or proposed runway as an instrument runway if the runway was not previously designated as such without the approval of the airport's governing body after a public hearing on such designation.

Operation Zone means a zone that is longitudinally centered on each existing or proposed runway.

Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.

Political Subdivision means any city, village, or county.

Proposed Runway means an instrument runway or a visual runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.

Runway means a defined area at an airport that is prepared for the landing and takeoff of aircraft along its length.

Structure means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.

Transition Zone means a zone that extends outward at a right angle to the runway centerline and upward at a rate of one (1) foot vertically for every seven feet horizontally (7:1). The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of 150 feet above the highest elevation on the existing or proposed runway.

Tree means any object of natural growth.

Turning Zone shall comprise all portions of the hazard area not contained in the Operation Zones, Approach Zones and in the Transitional Zones.

Turning Zone's Outer Limit means the area located at a distance of three (3) miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zone is 150 feet above the highest elevation on the existing or proposed runway.

Visual Runway means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an airport layout plan approved by the Federal Aviation Administration, a military service-approved military layout plan, or any planning documents submitted to the Federal Aviation Administration by a competent authority.

5.15.04 Hazard Area Description: In accordance with Neb. Rev. Stat. §3-303, every political subdivision that has adopted an airport hazard area within the area of its zoning jurisdiction, must adopt, administer, and enforce the regulations in this section for such airport hazard area.

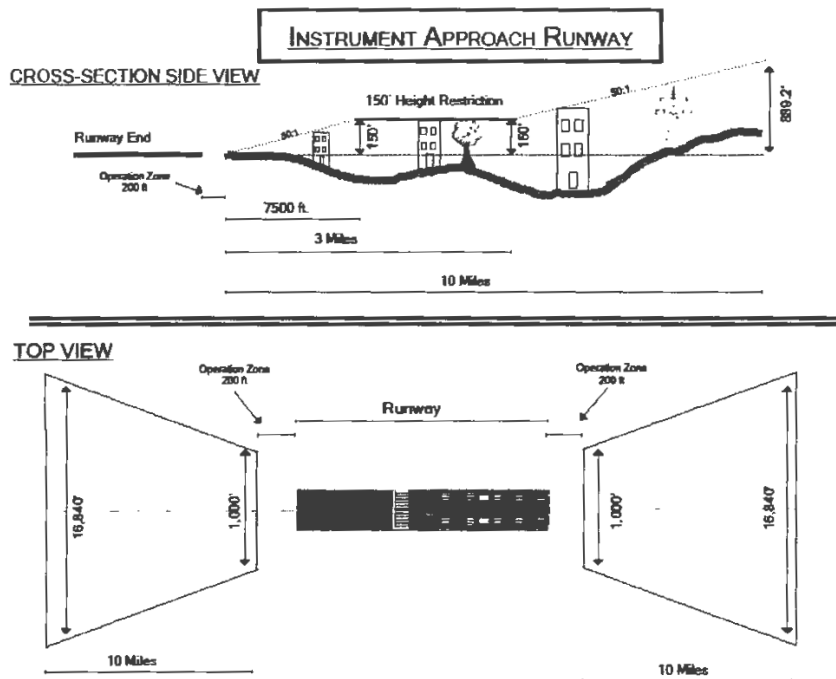
The airport hazard area consists of Operation Zones, Approach Zones, Turning Zones and Transitional Zones. The outer boundary of the hazard area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the Approach and Turning Zones. The inner boundary of the hazard area is a boundary line consisting of a series of intersecting tangents five hundred (500) feet from and parallel to the centerline of the instrument runway or landing strip and two hundred fifty (250) feet from and parallel to the respective centerlines of all other runways or landing strips and connecting the inner boundaries of adjacent Approach Zones at the ends of the runways, landing strips or proposed runways or landing strips.

5.15.06 ZONE DESCRIPTIONS AND REGULATIONS: The following are intended for use with this overlay district.

1. **Operation Zones** are longitudinally centered on each existing or proposed runway:
  - a. **Length.** For existing and proposed paved runways, the operation zone extends two hundred (200) feet beyond the ends of each runway. For existing and proposed turf runways, the operation zone begins and ends at the same points as the runway begins and ends;
  - b. **Width.** For existing and proposed instrument runways, the operation zone is 1,000 feet wide, with 500 feet on either side of the runway centerline. For all other existing and proposed runways, the operation zone is 500 feet wide, with 250 feet on either side of the runway centerline;
  - c. **Height.** The height limit of the operation zone is the same as the height of the runway centerline elevation on an existing or proposed runway or the surface of the ground, whichever is higher.
2. **Approach Zones** extend from the end of each operation zone and are centered along the extended runway centerlines. The dimensions of the zones are as follows:
  - a. For an existing or proposed instrument runway:
    - 1) **Length and Width.** An approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is 1,000 feet wide at the end of the zone nearest the runway and expands uniformly to 16,840 feet wide at the farthest end of the zone; and
    - 2) **Height Limit.** The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one (1) foot vertically for every 50 feet horizontally, except that the height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end. At three miles from such operation zone, the height limit resumes sloping one foot vertically for every 50 feet horizontally and continues to the ten-mile limit.
  - b. For an existing or proposed visual runway:
    - 1) **Length and Width.** An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is 500 feet wide at the end of the zone nearest the runway and expands uniformly so that at a point on the extended runway centerline three miles from the operation zone, the approach zone is 3,700 feet wide; and

- 2) **Height.** The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one (1) foot vertically for every 40 feet horizontally, except that the height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end.
3. **Transition Zones** extend outward at right angles to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally (7:1). The height limit of these zones begins at the height limit of the adjacent operation zones or approach zones. The transition zones end at a height of 150 feet above the nearest existing or proposed runway end.
4. **Turning Zones** extend three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zones is 150 feet above the nearest existing or proposed runway end.

5.15.06 HEIGHT RESTRICTIONS: No building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in Section 5.15.05 above:



5.15.07 LOCATION SKETCH AND ZONING MAP: The boundaries, Operation Zones, Approach Zones, Transition Zones and Turning Zones of the Tekamah Municipal Airport are as indicated on the map identified in Section 5.15.01, which accompany and are hereby made a part of these regulations, copies of which shall at all times be on file in the office of the City Clerk of Tekamah, Nebraska.



5.15.08 PERMIT REQUIRED, EXCEPTIONS, APPLICATION FORMS AND PERMIT FEES

1. Permit Required: It shall hereafter be unlawful to erect, construct, reconstruct, repair or establish any building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or to plant or replant any tree or other object of natural growth within the boundary of the zoned airport hazard area of the Tekamah Municipal Airport without first obtaining a building/zoning permit from the City Zoning Administrator and review of the Tekamah Airport Authority.
2. Exceptions: In the outer area of Approach Zones and within Turning Zones, no such permit shall be required for construction of planting which is no higher than seventy-five (75) feet above the elevation of the end of the nearest runway or landing strip, except for any permits required by other sections of these Regulations.
3. Application Forms: Application for a building/zoning permit as required under these regulations shall be made upon a form or forms to be available in the office of the Zoning Administrator and shall indicate the approximate location, ground elevation with reference to the elevation at the end of the nearest runway or landing strip and height of the proposed structure or planting (Mean Sea Level Elevation).
4. Permit Fees: The fee for each building/zoning permit shall be the normal fee charged by the City plus any other additional fees determined by the City and/or the Tekamah Airport Authority.

5.15.09 NON-CONFORMING USES AND STRUCTURES

1. Within the zoned airport hazard area as hereinbefore defined, no non-conforming building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or object of natural growth shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow, as the case may be, to a height which constitutes a greater hazard to air navigation than existed before these regulations where adopted; nor above the heights permitted by these regulations if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of eighty (80) percent or more of their original condition, or abandoned for a period of twelve (12) consecutive months or more. Transmission lines and communication lines as referred to in these regulations shall be interpreted to mean all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the airport hazard zone.
2. Except as provided in subsection (3) of this section for certain electric facilities, all such airport zoning regulations adopted under the act shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit authorizing any replacement, alteration, repair, reconstruction, growth, or replanting must be secured from the administrative agency authorized to administer and enforce the regulations. A permit shall be granted under this subsection if the applicant shows that the replacement, alteration, repair, reconstruction, growth, or replanting of the nonconforming structure, tree, or nonconforming use would not result in an increase in height or a greater hazard to air navigation than the condition that existed when the applicable regulation was adopted. For nonconforming structures other than electric facilities, no permit under this subsection shall be required for repairs necessitated by fire, explosion, act

of God, or the common enemy or for repairs which do not involve expenditures exceeding more than sixty percent of the fair market value of the nonconforming structure, so long as the height of the nonconforming structure is not increased over its preexisting height.

3. An electric supplier owning or operating an electric facility made nonconforming by the adoption of airport zoning regulations under the Airport Zoning Act may, without a permit or other approval by the political subdivision adopting such regulations, repair, reconstruct, or replace such electric facility if the height of such electric facility is not increased over its preexisting height. Any construction, repair, reconstruction, or replacement of an electric facility, the height of which will exceed the preexisting height of such electric facility, shall require a permit from the political subdivision adopting such regulations. The permit shall be granted only upon a showing that the excess height of the electric facility will not establish or create an airport hazard or become a greater hazard to air navigation than the electric facility that previously existed.

5.15.10        **MARKING OF NON-CONFORMING STRUCTURES:** Whenever the Zoning Administrator shall determine, or shall be notified by the Nebraska Department of Aeronautics or the Tekamah Airport Authority, that a specific non-conforming structure or object exists and has existed prior to the passage of these regulations and within the airport hazard zoned area herein before described at such a height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport, the owner or owners and the lessor or lessors of the premises on which such structure or object is located shall be notified in writing by the Zoning Administrator and shall, within a reasonable time, permit the marking thereof by suitable lights or other signals designated by the Zoning Administrator as is based on recommendations of the Nebraska Department of Aeronautics and/or Tekamah Airport Authority. The cost of such marking shall not be assessed against the owner or lesser of said premise.

5.15.11        **ADMINISTRATIVE AGENCY:** The Zoning Administrator of Tekamah, Nebraska shall administer and enforce these regulations, and Tekamah Airport Authority shall be the administrative agency provided for in Neb. Rev. Stat. Section 3-319 (Reissued 2007), and shall have all the powers and perform all the duties of the administrative agency as provided by the Airport Zoning Act within the zoning jurisdictional area of the City.

5.15.12        **VARIANCE FROM REGULATIONS**

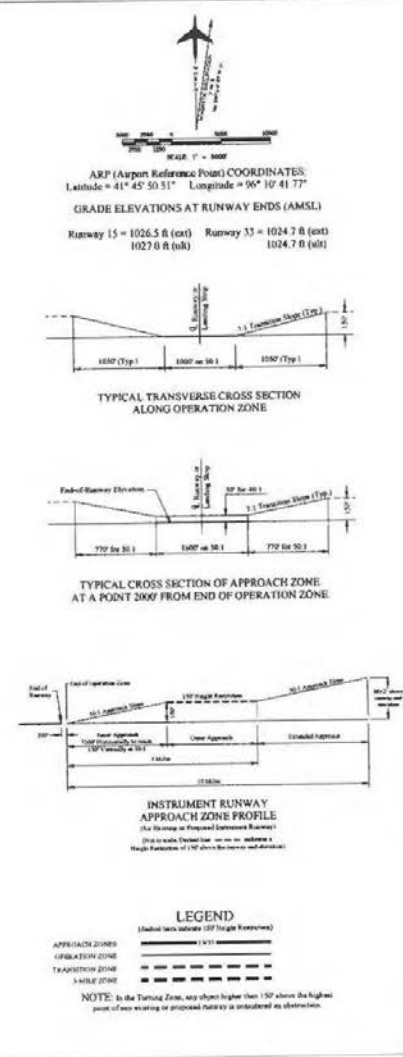
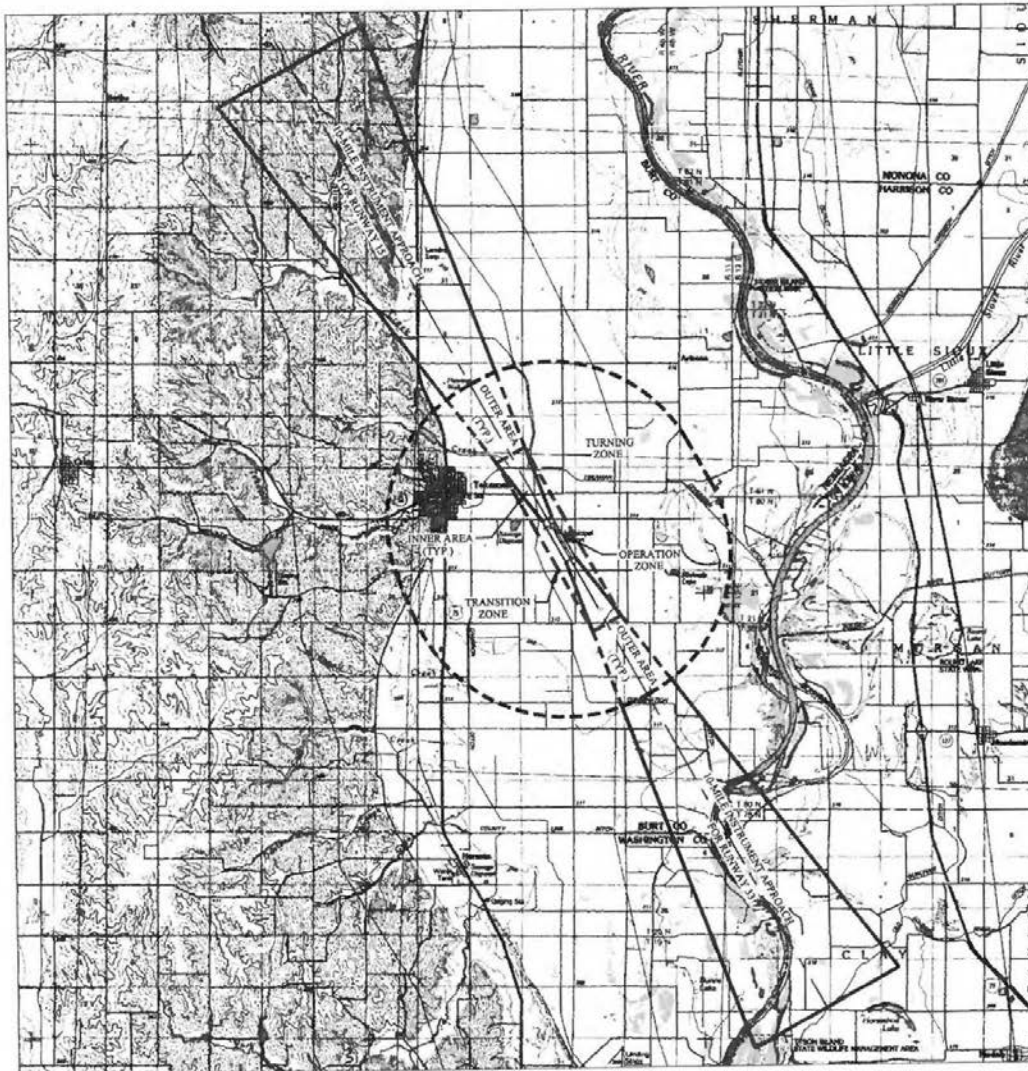
1. Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in a manner inconsistent with the airport zoning regulations adopted under this regulation may apply to the board of adjustment for a variance from the zoning regulations in question. Such variances shall be allowed only if the board of adjustment makes the same findings for the granting of variances generally as set forth in subsection section 19-907 through 19-912.01, except that if the applicant demonstrates that the proposed structure or alteration of a structure does not require any modification or revision to any approach or approach procedure as approved or written by the Federal Aviation Administration on either an existing or proposed runway and the applicant provides signed documentation from the Federal Aviation Administration that the proposed structure

or alteration of the structure will not require any modification or revision of any airport minimums, such documentation may constitute evidence of undue hardship and the board of adjustment may grant the requested variance without such findings. Any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this regulation.

2. In granting any permit under or variance from any airport zoning regulation adopted under this regulation, the administrative agency or board of adjustment may, if it deems such action is advisable to effectuate the purposes of the regulation and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

5.15.13        **BOARD OF ZONING ADJUSTMENT:** The Board of Adjustment of Tekamah, Nebraska shall be the Board of Zoning Adjustment with respect to these regulations, to have and to exercise the powers conferred by Neb. Rev. Stat. Section 3-320, et. Seq. (Reissued 2007), and duties as are conferred and imposed by law.

5.15.14        **CONFLICTS:** In the event of any conflict between these airport hazard regulations and any other regulations established by these or other regulations, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, the more stringent or restrictive limitation shall govern and prevail.



APPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_  
 DESIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_  
 DRAWN BY: KJH  
 CHECKED BY: DE  
 SCALE: AS SHOWN  
 DATE: 01/13/15  
 SHEET NO: 1/1

NEBRASKA DEPARTMENT OF AERONAUTICS - ENGINEERING DIVISION  
 LINCOLN, NE 68501-2083  
 P.O. BOX 82088  
 OFFICE: (402) 471-2371 FAX: (402) 471-2906

TEKAMAH MUNICIPAL AIRPORT  
 TEKAMAH, NEBRASKA

AIRPORT ZONING MAP

## **ARTICLE 6: CONDITIONAL USE PERMITS**

### **Section 6.01 General Provisions**

The City Council may, by conditional use permit after a Public Hearing and referral to and recommendation from the Planning Commission, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The Council may grant or deny a conditional use permit in accordance with the intent and purpose of this ordinance. In granting a conditional use permit, the Council will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit.

### **Section 6.02 Application for Conditional Use Permit**

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the City upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee.

### **Section 6.03 Public Hearing and Notice**

Before issuance of any conditional use permit, the Council will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of Tekamah, one (1) time at least ten (10) days prior to such hearing.

In addition to the publication of notice as herein prescribed, a notice in sign form, of the hearing date and time shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten (10) days prior to the hearing date.

### **Section 6.04 Decisions**

A majority vote of the Council shall be necessary to grant a conditional use permit. No order of the Council granting a conditional use permit shall be valid for a period of longer than twelve (12) months from the date of such order, for the purpose of setting the time at which construction must begin, unless the Council specifically grants a longer period of time upon the recommendation of the City Planning Commission.

### **Section 6.05 Standards for Conditional Use Permits**

No conditional use permit shall be granted unless the Planning Commission or City Council has found:

6.05.01 That the conditional use is not one that would require the rezoning of the property.

6.05.02 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.

- 6.05.03 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- 6.05.04 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
- 6.05.05 That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
- 6.05.06 That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 6.05.07 The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- 6.05.08 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to the health of humans, animals, and vegetation or which can cause soiling, discomfort, or irritation.
- 6.05.09 The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
- 6.05.10 The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any street, road, or highway.
- 6.05.11 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- 6.05.12 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.
- 6.05.13 In making any decision granting a conditional use permit, the Planning Commission or City Council shall impose any other restrictions, terms, time limitations, landscaping, improvements of off-street parking lots, and other appropriate safeguards as necessary to protect adjoining property.

**Section 6.06 Protest**

In the event of a protest against such conditional use permit, signed by the owners of twenty percent (20%) or more of either the area of the lots included in such conditional use, or of those immediately adjacent to and within three hundred feet (300') of the property lines of the property included in such conditional use, such conditional use permit shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the City Council.

**Section 6.07 Salvage or Junk Yards**

Salvage or junk yard operations and related facilities shall only be allowed by conditional use permit in the AG and I-1 zoning districts.

- 6.07.01 Located on a tract of land at least one-thousand three hundred and twenty feet (1,320') from a residentially zoned district, residential use, or farmstead.
- 6.07.02 The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a solid, permanent fence, wall or vegetation barrier at least eight feet (8') in height. Such fence, wall or vegetation

barrier shall be maintained in a uniform texture and color, and shall be kept in good repair. The fence, wall or vegetation barrier shall be installed and maintained in a manner as to retain all scrap, junk, or other material within the property, and no such scrap, junk or other material shall protrude above the fence, wall or vegetation barrier.

- 6.07.03 No scrap, junk, or other material shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside of an enclosed building, fence, wall or vegetation barrier.
- 6.07.04 The operation shall also conform to any other requirement deemed appropriate and necessary by the Planning Commission or City Council for the protection of the general health and welfare of the residents of Tekamah.

## ARTICLE 7: SUPPLEMENTAL REGULATIONS

### Section 7.01 Off-Street Automobile Parking Requirements

In all districts and in connection with every use, there shall be provided at the time any building or use is erected, enlarged, extended, or increased, off-street parking stalls pursuant to Section 7.02, and in accordance with the following:

- 7.01.01 Off-street automobile parking or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of two hundred fifty (250) square feet per parking space shall be used.
- 7.01.02 All off-street parking areas shall be graded and surfaced so as to reduce ambient dust. Any parking area for more than ten (10) vehicles shall have aisles and spaces clearly marked.
- 7.01.03 Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- 7.01.04 In Districts R-1 and R-2, required off-street parking for residential use shall be provided on the lot on which is located the use to which the parking pertains. In all other Districts, if vehicle parking space or standing space required in section 7.02 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the City Council, the City Council may permit such space to be provided on other off-street property, provided such space lies within four hundred feet (400') of an entrance to such principal use. Such vehicle parking space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.
- 7.01.05 Where off-street parking is located on a lot other than the lot occupied by the use which requires it, site plan approval for both lots is required.
- 7.01.06 Some uses may require two different use types to be calculated together in order to determine the total parking requirement (i.e. primary schools may require one calculation for classrooms and another for assembly areas.)
- 7.01.07 The C-1 General Commercial District shall be exempt from the provisions of this Ordinance pertaining to parking requirements.
- 7.01.08 Loading requirements, when applicable, shall be provided such that all vehicles loading, unloading, or maneuvering are completely off of public streets and rights-of-way, and such that no vehicle shall be permitted to back onto a public street or road.



**Section 7.02**

**Minimum Off-Street Parking and Loading Requirements**

Uses	Parking Requirements	Loading Space Requirements
Single-Family Residential	One (1) space per dwelling unit	None required
Mobile or Manufactured Home	One (1) space per dwelling unit	None required
Multiple- Family Residential	Two (2) spaces per dwelling unit	None required
Mobile or manufactured Home Park	One (1) space per Mobile or Manufactured Home unit	None required
Lodging and Boarding Houses	Two (2) spaces per three (3) guest beds, plus 1 space for the managing resident	Two (2) spaces per structure
Nursery School	Parking equal to 20% of capacity in students	Two (2) per establishment
Primary Schools	Parking equal to 20% of capacity in students	Two (2) per establishment
All other Educational services	Parking equal to 40% of capacity in students	Two (2) per establishment
Libraries	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
Medical Clinics	Five (5) spaces per staff doctor or dentist	None required
Veterinary Clinic	Three (3) spaces per staff doctor	One (1) per establishment
Convalescent and Nursing Home Services	One (1) space per three (3) beds plus one (1) space per employee	One (1) per establishment
Funeral	Eight (8) spaces per reposing room	Two (2) per establishment
Churches, Temples, and Synagogues	One (1) space per three (3) seats or sixty inches (60') of pew space in main worship hall	None required
Private Clubs and Lodges	One (1) space per 200 s.f. of gross floor area	One (1) per establishment
Hotels and Motels	One (1) space per rental unit, plus one (1) space per employee	One (1) per establishment
Retail Sales establishments	One (1) space per 200 s.f. of gross floor area, plus one (1) space per 2 employees	One (1) per establishment
Service establishments and Offices	One (1) space per 200 s.f. of gross floor area	One (1) per establishment
Eating and Drinking places	Parking equal to 40% of seating capacity, plus one (1) space per 2 employees	Two (2) per establishment
Theaters, auditoriums, community buildings owned and/or occupied by public or private agencies and places of assembly	One (1) space per 4 seats, or one (1) space per 4 persons in designed capacity, whichever is greater	One (1) per establishment
Bowling alley	Five (5) spaces per alley, plus one (1) space per employee	One (1) per establishment
Roadside stands	Four (4) spaces per establishment	None required
Wholesaling and Warehousing	One (1) space per employee on largest shift	Two (2) per establishment
Industrial and Manufacturing	One (1) space per employee on largest shift	Two (2) spaces per structure

**Section 7.03 Off-Street Parking: Shared Parking Requirements**

Notwithstanding the provisions of Section 7.02, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in a common parking lot is likely to occur, compliance with the standard parking ratios may be decreased by the Planning Commission and City Council.

**Section 7.04 Off-Street Parking: Parking for Individuals with Disabilities**

7.04.01 In conformance with the Americans with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided in each parking area in conformance with the table in this section. Spaces required by the table need not be provided in the particular lot. They may be provided in a different, if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured.

<i>Total Required Parking Spaces:</i>	<i>Required Minimum Number of Accessible Spaces</i>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	Two percent (2%) of the Total
1,001 and Over	20, plus 1 for each 100 over 1,000

7.04.02 Unless otherwise provided in this Section, access aisles adjacent to accessible spaces shall be sixty inches (60”) wide at a minimum.

1. One in every eight accessible spaces, but not less than one, shall be served by an access aisle ninety-six inches (96”) wide minimum and shall be designated “van accessible” as required by Section 7.04.04 of this Ordinance. The vertical clearance at such spaces shall comply with 7.04.05 of this Ordinance. All such spaces may be grouped on one level of a parking structure.
2. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two (2) accessible parking spaces may share a common access aisle.
3. Parked vehicle overhangs shall not reduce the clear width of an accessible route.
4. Parking spaces and access aisles shall be level with slopes not exceeding two percent (2%) in all directions.
5. If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 7.04.06 of this Ordinance.
6. At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 7.04 of this Ordinance shall be provided in accordance with 7.04.01 of this Ordinance; except as follows:
  - a) Outpatient units and facilities: Ten percent (10%) of the total number of parking spaces provided serving each such outpatient unit or facility;
  - b) Units and facilities that specialize in treatment or services for persons with mobility impairments: Twenty percent (20%) of the total number of parking spaces provided serving each such unit or facility.

7.04.03 Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.

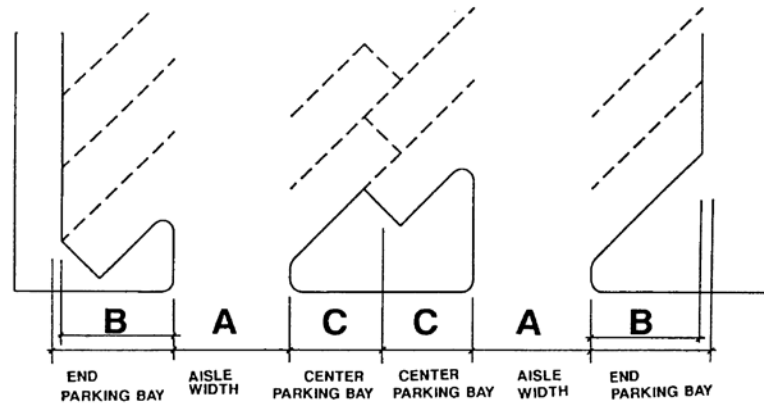
1. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
  2. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.
- 7.04.04 Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying with Section 7.04.02(1) shall have an additional sign stating the stall is “Van Accessible” mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.
- 7.04.05 Minimum vertical clearance of one-hundred fourteen inches (114”) at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 7.04.02(1), provide minimum vertical clearance of ninety-eight inches (98”) at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).
- 7.04.06 Passenger Loading Zones shall provide an access aisle at least sixty inches (60”) wide and two-hundred forty inches (240”) long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding two percent (2%) in all directions.

**Section 7.05 Off-Street Parking Design Criteria**

- 7.05.01 Standard parking stall dimensions shall not be less than ten feet (10’) by eighteen feet (18’), plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five feet (5’) in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet (2’). Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

**Parking Configuration**

	<b>90-degree</b>	<b>60-degree</b>	<b>45-degree</b>
<b>Aisle Width (A)</b>			
One-way traffic	-----	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
<b>End Parking Bay Width (B)</b>			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet	17 feet
<b>Center Parking Bay Width (C)</b>	18 feet	18 feet	16 feet



- 7.05.01 Minimum dimensions for a parallel parking space shall be ten feet (10') by twenty-three feet (23').
- 7.05.02 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and City Council upon recommendation of the City Engineer.

### **Section 7.06 Sign Area Computation**

- 7.06.01 *Computation of Area of Individual Signs:* The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly identical to the display itself.
- 7.06.02 *Computation of Area of Multi-faced Signs:* The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two inches (42") apart, the sign area shall be computed by the measurement of one of the faces.
- 7.06.03 *Computation of Height:* The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, parcel, or tract of land, whichever is lower.

## Section 7.07 Sign Schedules

7.07.01 Signs shall be permitted in the various districts according to the following schedule:

<u>Zoning District</u>	<u>AG</u>	<u>TA</u>	<u>R-1</u>	<u>R-2</u>	<u>C-1</u>	<u>C-2</u>	<u>I</u>	<u>G</u>
<b>Sign Type</b>								
Real Estate	+	+	+	+	+	+	+	+
Announcement	+	+	+	+	+	+	+	+
Wall	+	C	-	-	+	+	+	-
Name Plate	C	+	+	+	+	+	+	+
<b>Ground</b>								
Ground	C	C	C	C	+	+	+	C
Campaign	+	+	+	+	+	+	+	+
Pole	-	-	-	-	C	C	C	-
ECMS	C	-	C	C	+	+	+	C

+: permitted    -: not permitted    C: Conditional Use

7.07.02 Signs shall be permitted in the various districts at the listed square footage and heights according to the following schedule:

<u>Zoning District</u>	<u>AG</u>	<u>TA</u>	<u>R-1</u>	<u>R-2</u>	<u>C-1</u>	<u>C-2</u>	<u>I</u>	<u>G</u>
<b>Sign Type</b>								
<b>Real Estate</b>								
Max. Square Ft.	32	6	6	6	32	32	32	32
Max. Height Ft.	4	-	-	-	4	4	4	4
Max. Number	2	1	1	1	1	1	1	1
<b>Announcement</b>								
Max. Square Ft.	32	6	6	6	32	32	32	-
Max. Height Ft.	4	4	4	4	4	4	4	-
Max. Number	1	1	1	1	1	1	1	-
<b>Wall</b>								
Max. Square Ft.	200 <sup>1</sup>	200'	-	-	200 <sup>1</sup>	200 <sup>1</sup>	200 <sup>1</sup>	400 <sup>1</sup>
Max. Height Ft.	15	15'	-	-	45	45	45	45
Max. Number	1	1	-	-	1	1	1	1
<b>Name Plate</b>								
Max. Square Ft.	2	2	2	2	2	2	2	2
Max. Height	-	-	-	-	-	-	-	-
Max. Number	1	1	1	1	1	1	1	1
<b>EMCS</b>								
Max. Square Ft.	50	-	50	50	50	-50	-50	50-
Max. Height Ft.	10	-	10	10	10	-10	-10	-10
Max. Number	1	-	1	1	1	1	1	1
<b>Ground</b>								
Max. Square Ft.	50	25	-	-	32 <sup>2</sup>	32 <sup>2</sup>	50 <sup>3</sup>	32 <sup>2</sup>
Max. Height Ft.	10	10	-	-	10	10	10	10
Max. Number	1	4	-	-	1	1	1	1
<b>Campaign</b>								
Max. Square Ft.	32	6	6	6	32	32	32	32
Max. Height Ft.	4	-	-	-	4	4	4	4
Max. Number	2	2	2	2	2	2	2	2
<b>Pole</b>								
Max. Square Ft.	-	-	-	-	100 <sup>4</sup>	100 <sup>4</sup>	200 <sup>5</sup>	-
Max. Height Ft.	-	-	-	-	40	40	40	-
Max. Number	-	-	-	-	1	1	1	-

- <sup>1</sup> Wall signs shall not exceed ten percent (10%) of the total wall area or the number indicated, whichever is greater.
- <sup>2</sup> Ground signs may be increased from thirty-two (32) square feet in area to fifty (50) square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
- <sup>3</sup> Ground signs may be increased from fifty (50) square feet in area to seventy-five (75) square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
- <sup>4</sup> Pole signs may be increased from one-hundred (100) square feet in area to one-hundred fifty (150) square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
- <sup>5</sup> Pole signs may be increased from two-hundred (200) square feet in area to three-hundred (300) square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.

- 7.07.03 A building or use having frontage on a second street may install a sign on the second street side no greater in size than twenty percent (20%) of the total allowed on one facade.

**Section 7.08 Signs, Special Conditions**

- 7.08.01 Real Estate Signs. Not more than two (2) signs per lot may be used as a temporary sign. Signs in the TA District shall be set back twenty feet (20') from the road right-of-way or road easement.
- 7.08.02 Signs hung from canopies and awnings shall maintain eighty inches (80") of clear space, as measured from the bottom edge of the sign to the grade below.

**Section 7.09 Home Occupations**

The following are the minimum standards required for a Home Occupation:

- 7.09.01 One unlit nameplate of not more than two (2) square feet in area attached flat against a building located on local or collector streets. However, signs may be four (4) square feet in area if attached flat against a building located on arterial streets.
- 7.09.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- 7.09.03 No more than fifty percent (50%) of the home can be used for the home occupation,
- 7.09.04 No more than one (1) employee or co-worker other than the resident(s) can work from the site,
- 7.09.05 No retail sales are permitted from the site other than incidental sales related to services provided,
- 7.09.06 No exterior storage (excluding storage within detached buildings/garages) is permitted,
- 7.09.07 Additional off-street parking may be required for the business,
- 7.09.08 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
- 7.09.09 All businesses related to Child Care Homes and Child Care Centers shall be licensed in accordance with proper state statutes.

**Section 7.10 Wireless Communication Towers**

- 7.10.01 *Intent:* The Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act), grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the City in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication services, telecommunication facilities, towers and antennas in the City, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use / collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed

when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

7.10.02 *Definitions:* All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

1. **ABANDONMENT** shall mean: (1) to cease operation for a period of sixty (60) or more consecutive days; (2) to reduce the affected radiated power of an antenna by 75% for sixty (60) or more consecutive days; (3) to relocate an antenna at a point less than 80% of the height of an antenna support structure; or (4) to reduce the number of transmissions from an antenna by 75% for sixty (60) or more consecutive days.
2. **ANTENNA** shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.
3. **ANTENNA HEIGHT** shall mean the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the highest and lowest grades of the parcel shall be used in calculating the antenna height.
4. **ANTENNA SUPPORT STRUCTURE** shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.
5. **APPLICANT** shall mean any person that applies for a Tower Development Permit.
6. **APPLICATION** shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the City submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the City concerning such request.
7. **CONFORMING COMMERCIAL EARTH STATION** shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.
8. **ENGINEER** shall mean any engineer qualified and licensed by any state or territory of the United States of America.
9. **OWNER** shall mean any person with a fee simple title or a leasehold exceeding ten (10) years in duration to any tract of land within the zoning jurisdiction of the City who desires to develop, construct, modify, or operate a tower upon such tract of land.
10. **PERSON** shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

11. **SATELLITE DISH ANTENNA** shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.
12. **STEALTH** shall mean any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.
13. **TELECOMMUNICATIONS FACILITIES** shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
  1. Any Conforming Commercial Earth Station antenna that measures six feet (6') or less in diameter.
  2. Any earth station antenna or satellite dish antenna of three feet (3') or less in diameter, regardless of zoning applicable to the location of the antenna.
14. **TOWER** shall mean a self-supporting lattice, guyed, or monopole structure which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operators equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
15. **TOWER DEVELOPMENT PERMIT** shall mean a permit issued by the City upon approval by the City Council of an application to develop a tower within the zoning jurisdiction of the City. Such permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permits duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.
16. **TOWER OWNER** shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

7.10.03 *Exemptions:* The following are exempt from the provisions of this Ordinance, except Section 7.10.07, and shall be permitted in all zones:

1. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.
2. Antennas and related equipment no more than three feet (3') in height that are being stored, shipped, or displayed for sale.
3. Radar systems for military and civilian communications and navigation.
4. Wireless radio utilized for temporary emergency communications in the event of a disaster.
5. Licensed amateur (ham) radio operations.
6. Satellite dish antennas less than six feet (6') in diameter, including direct to home satellite services, when used as an accessory use of the property.
7. Routine maintenance or repair of a personal wireless service facility and related equipment (excluding structure work or changes in height or dimensions of antennas, towers, or buildings), provided that compliance with the standards of



this ordinance are maintained.

8. Subject to compliance with all other applicable standards of this ordinance, a building permit application need not be filed for emergency repair or maintenance of a personal wireless service facility until thirty (30) days after the completion of such emergency activity.

7.10.04 *Location of Towers and Construction Standards:*

1. Towers shall be conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Tower Development Permit by the City Council and issuance of the permit by the City. Applicants shall submit their application for a Tower Development Permit to the Zoning Office and shall pay a filing fee in accordance with Section 4.21.
3. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the City after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the City, County, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed in the Zoning Office.

7.10.05 *Application to Develop a Tower:* Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Office for a Tower Development Permit and shall include the following:

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. All applicants shall execute the application.
2. The legal description and address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one (1) mile radius of the proposed tower, including publicly and privately owned towers and structures.
4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support, or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
5. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the City Council and federal and state and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and/or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.

8. A performance bond in the amount of fifty-thousand dollars (\$50,000) for the expenses of removal and disposal of the tower.

7.10.06 *Tower Development Permit Procedure:* After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following all Statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the City Council. Upon the completion of the Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the City Council, following all Statutory requirements for publication and notice, to consider such application and the recommendation of the City Planning Commission. Notice, for each Public Hearing, shall be made at least one (1) time and at least ten (10) days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. The Planning Commission and City Council may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and/or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

7.10.07 *Setbacks and Separation Buffer Requirements:* All towers shall be set back from all property lines, rights-of-way, and public roads a distance equal to one hundred percent (100%) of the height of the proposed tower plus the required setback. The height of a tower shall be measured from the grade at the foot of the base or pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.

Towers exceeding one hundred feet (100') in height must be separated from all residential zoned land and/or residential structures other than those owned by the tower owner, by a minimum of one-thousand feet (1,000').

Towers must meet the following minimum separation requirements from other towers:

1. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred fifty feet (750').
2. Self-supporting lattice or guyed towers shall be separated from all other self-supporting or guyed towers by a minimum of one thousand five hundred feet (1,500').

7.10.08 *Co-Location:* To minimize adverse visual impacts associated with the proliferation of towers, co-location of antennas by more than one carrier on existing or new towers and location of such antennas on public property shall take precedence over the construction of new single-use towers.

The City Council may deny the application to construct a new tower if the applicant has not shown by substantial evidence that it has made a good faith effort to mount the antenna on an existing structure and/or public property.

In order to reduce the number of antenna support structures needed in the City in the future, any new proposed support structure shall be designed to accommodate antenna for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons. Unless co-location has been

demonstrated to be infeasible, the site plan shall delineate an area near the base of the tower to be used for the placement of additional equipment buildings for other users. The site plan for towers in excess of 100 feet (100') must propose space for two other comparable tower users while the site plan for towers under 100 feet (100') must propose space for one other comparable tower user.

To provide further incentive for co-location as a primary option, an existing tower may be modified or reconstructed to accommodate the co-location of additional antenna, provided the additional antenna shall be consistent with the use and aesthetics as that on the existing tower. This is permitted by conditional use permit for existing towers in all zoning districts, subject to the following criteria being met:

1. *Height:* An existing tower may be modified or rebuilt to a taller height, to accommodate the co-location of additional antenna, so long as it is done in accordance with the provisions of this ordinance.
2. *Onsite Location:* A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved on-site within fifty feet (50') of its existing location so long as it remains within the same zone and complies with the other provisions of this Ordinance. After the tower is rebuilt to accommodate co-location, only one tower may remain on site.

7.10.09 *Structural Standards for Towers:* The *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Ordinance.

7.10.10 *Illumination and Security Fences:*

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses/zoned properties within a distance of three-hundred percent (300%) of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

7.10.11 *Exterior Finish:* Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Planning Commission and City Council as part of the application approval process. All towers which must be approved as a conditional use shall be design with stealth features unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.

7.10.12 *Landscaping:* All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the City.

7.10.13 *Maintenance, Repair, or Modification of Existing Towers:* All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements

of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the City Council, an exemption from compliance as a condition of the Tower Development Permit.

7.10.14 *Inspections:* As a condition to the approval of a Tower Development Permit, the applicant shall grant to the City the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the City's Building Codes and any other construction standards set forth by the City, federal, and state law or applicable ANSI standards. Applicant shall also grant permission to any employee of the City's Zoning Office, Zoning Administrator, or other duly appointed independent representative of the City, to enter onto the property of applicant for the purpose of conducting such inspection.

7.10.15 *Maintenance and Inspections:* The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.

Each year after a facility becomes operational, the facility operator or owner shall conduct a safety inspection in accordance with applicable federal and industry standards, and within sixty (60) days of such inspection, shall file a report of such inspection with the City. Submission to the City of an FCC required, and duly filed, safety inspection report, or the facility operator's or owner's maintenance reports for the prior twelve (12) months in the event no FCC report is required for such year, shall satisfy this requirement.

7.10.16 *Abandonment:* The tower owner shall be responsible to notify the Zoning Administrator of any periods of non-use of the tower, or of an abandonment of the tower. If any tower shall cease to be used for a period of three hundred sixty-five (365) consecutive days, the Zoning Administrator shall notify the tower owner that the site will be subject to a determination by the Zoning Administrator that the site has been abandoned. Upon issuance of notice by the Zoning Administrator, the tower owner shall have thirty (30) days to show by a preponderance of the evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have seventy five (75) days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the County or County designee and a written request shall be directed to the County Attorney to proceed to abate said public nuisance, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

7.10.17 *Satellite Dish Antennas:* Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Clarkson only upon compliance with the following criteria:

1. In residentially zoned districts, satellite dish antennas may not exceed a diameter of ten feet (10').
2. Single family residences may not have more than one (1) satellite dish antenna over three feet (3') in diameter.

3. Multiple family residences with ten (10) or less dwelling units may have no more than one (1) satellite dish antenna over three feet (3') in diameter. Multiple family residences with more than ten (10) dwelling units may have no more than two (2) satellite dish antennas over three feet (3') in diameter.
4. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.

All satellite dish antennas installed within the zoning jurisdiction of Clarkson, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

### **Section 7.11 Fences**

No fence shall be constructed within the zoning jurisdiction of the City of Tekamah unless a permit therefore is approved and issued by the building inspector and is constructed in conformance with the following requirements. The permit requirement shall not apply to fences installed as dog runs, patio enclosures, or ornamental fencing, unless the same shall be constructed along a property line.

7.11.01 The height limitation for fences shall be six feet (6') above ground level except as provided herein.

1. A fence constructed within a front yard of a residential lot and vegetation used as a barrier, screen, or fence along and parallel to the front line of a residential lot, shall not exceed forty-eight inches (48") in height.
2. Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than six feet (6') in height may be approved by through a Conditional Use Permit.
3. Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet (8') in height.
4. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet (8') in height.

7.11.02 Fences located within a front or side yard of a residential lot must qualify within the definition of an open fence, except that solid fences may be constructed along a side lot line parallel and adjacent to the lot line that is adjacent to a Commercial District or an Industrial District. A solid fence may be constructed in a side yard parallel and adjacent to the lot line that is adjacent to a street.

7.11.03 No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.

7.11.04 The use of barbed wire in the construction of any fence is prohibited except:

1. Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the City before commencement of construction.
2. Farm fencing constructed for agricultural purposes on parcels of land ten (10) acres or more in size, located in the Agriculture and Transitional Agricultural Districts.

7.11.05 All fences shall be maintained in good repair.

7.11.06 All fences shall be located inside the boundaries of the property upon which constructed except where two (2) adjacent property owners pursuant to written agreement filed with the City agree to build one (1) fence on the common lot line of adjacent side yards or back yards.

- 7.11.07 *Electric Fences* No electric fence shall be constructed or maintained within the City of Tekamah or within its extraterritorial zoning jurisdiction except in the Agriculture and TA-Transitional Agriculture Districts as hereinafter provided. An owner or lessee of such property may, upon application to the City and approval by the Building Inspector, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Building Inspector shall approve any electrified fencing, it shall be determine that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.
- 7.11.08 *Facing* The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two (2) or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.
- 7.11.09 *Fences in existence as of the date of adoption of this Ordinance* Any existing fence which was in conformity with past Municipal Code provisions and which was in place as of the date of adoption of this Ordinance, may remain without change in accordance with this section notwithstanding same may be in conflict with one (1) or more provisions of this section as amended; provided, however, any replacement or change of said existing fence or addition of a new fence, must hereby meet the requirements of this section as amended hereby.

## **Section 7.12 Screening**

- 7.12.01 *Intent:* The screening requirements are intended to improve the appearance of lot areas; to provide a buffer between differing land uses; to minimize the adverse effect of uses from one another; to minimize the effect of heat, noise and glare; and to conserve the value of property and neighborhoods within the community. Property development shall consider and respect land capabilities and constraints, minimize erosion and destruction of natural amenities and provide a buffer between differing land uses.
- 7.12.02 *Screening Requirements:*
1. All parking areas or vehicular use areas abutting a residential district or public right-of-way shall be screened from grade level to a height not less than three feet (3').
  2. All commercial and industrial uses that abut residential or office districts shall provide screening not less than six feet (6') in height along the abutting property line(s).
  3. Screening required by this section shall be equivalent to the following:
    - a). Solid fences or walls as approved by the Planning Commission on the final development plan.
    - b). Hedges, shrubs, or evergreen trees of thirty-six inches (36") in height at planting spaced appropriately to provide a solid screen within 3 years after planting.
    - c). Berms of not less than three feet (3') in height and that provide a maximum slope of 3:1 for easy maintenance. Such berms may be used in conjunction with plantings to achieve the solid visual screen as described in Section 7.12.02 (3)(a) above.

- d). All projects except one-and-two family dwellings shall include a detailed drawing on the landscape plan indicating the method of enclosure and screening to be used on trash dumpsters. All dumpsters or trash bins shall maintain a solid six feet (6') tall enclosure around each unit. Said enclosure shall be constructed of materials complimentary and suitable to the primary use.
- e). The fence, wall or vegetation barrier on properties abutting residential districts shall be installed and maintained in a manner as to retain all vehicles, equipment, storage items, and no other material shall protrude above the fence, wall or vegetation barrier.

7.12.03 *Installation and Maintenance of Screening:* All required screening and fencing shall be maintained and, whenever necessary, replaced with materials that provide equivalent size, density, and appearance. All landscaping and screening shall be kept free from refuse and debris so as to present a healthy, neat and orderly appearance. Lawn grass shall be maintained on all areas not covered by other landscaping, parking, drives, buildings, or similar structures. Existing yards shall be maintained with grass or other approved ground cover.

1. Installation:

All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures. Landscaped areas shall require protection from vehicular encroachment. The Zoning Administrator shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided. Temporary occupancy permits may be issued due to weather related conditions upon approval by the Zoning Administrator.

2. Maintenance:

The owner, developer, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in proper condition. When replacement is necessary all plants and other non-living landscape materials shall be equal in size, density and appearance to those items requiring replacement. Underground sprinkler systems shall be provided to serve all landscaped areas except individual one and two family dwellings unless the Planning Commission approves an equivalent watering system.

7.12.04 *Parking Lot Plan Approval:* A final site development plan shall be submitted to the Planning Commission with the requisite landscaping and screening required herein for each of the following types of parking lot improvements:

- 1. New construction.
- 2. Expansion of existing facilities.
- 3. Maintenance of existing facilities where an overlay is proposed at which time the landscaping and screening shall be required. Modifications to the required parking lot landscaping and screening may be granted by the Planning Commission after review of submitted plans and in consideration of surrounding uses.
- 4. No parking lot shall be exempted from these regulations; unless previously exempted.

**Section 7.13 Performance Standards for Industrial Uses**

7.13.01 *Physical Appearance:* All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles

for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.

- 7.13.02 *Fire hazard:* No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the City of Tekamah.
- 7.13.03 *Noise:* No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.
- 7.13.04 *Sewage and Liquid Wastes:* No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
- 7.13.05 *Air Contaminants:*
1. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such an capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted
  2. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
  3. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
- 7.13.06 *Odor:* The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Regulations.
- 7.13.07 *Gasses:* The gasses Sulphur Dioxide and Hydrogen Sulphide shall not exceed five parts per million (5ppm), carbon monoxide shall not exceed five parts per million (5ppm). All measurements shall be taken at the zoning lot line.
- 7.13.08 *Vibration:* All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a



displacement of three thousandths of an inch (0.003”) measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.

- 7.13.09 *Glare and Heat:* All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than 5 degrees Fahrenheit.

#### **Section 7.14 Wind Energy Systems**

In any zoning district *where listed*, a conditional use permit may be granted to allow wind energy conversion system, including such devices as wind charger, windmill, or wind turbine; subject to the following condition:

- 7.14.01 The distance from any tower support base to any tower support base of another wind energy device under other ownership shall be a minimum of five (5) rotor distances, figured according to the size of the largest rotor.
- 7.14.02 The wind energy system operation shall not cause interference to the radio and television reception on adjoining property.
- 7.14.03 To limit climbing access to the tower, a fence six feet (6’) high with a locking portal shall be placed around the tower base or the tower climbing apparatus shall be limited to no more than twelve feet (12’) from the ground, or the tower may be mounted on a roof top.
- 7.14.04 The setback distances from all lot lines to any tower support base shall be determined according to the following setback table:

<u>Rotor Diameter</u>	<u>Setback Distance</u>	<u>Minimum Lot Area*</u>
5 feet	100 feet	1.0 Acre
10 feet	165 feet	2.5 Acres
15 feet	220 feet	4.5 Acres
20 feet	270 feet	6.75 Acres
30 feet	310 feet	9.0 Acres

\* several towers under single ownership the minimum lot areas may be adjusted down provided the minimum setback distances are met on all perimeter units. In addition, the landing areas for all internal towers and rotors shall be within the property owned by the operator.

- 7.14.05 Data pertaining to the machine’s turbine safety and stability shall be filed with the application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program.<sup>1</sup>
- 7.14.06 The application shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.

#### **Section 7.15 Sand, Gravel, Mineral, Stone, Rock, and Soil Extraction and Quarries**

- 7.15.01 The application shall include a grading map showing contours, proposed excavation contours, and proposed final grade contours.

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<sup>1</sup> U.S. Department of Energy – EPRI Wind Turbine Verification Program  
Electric Power Research Institute – 3412 Hillview Avenue, Palo Alto, California 94304

- 7.15.02 The applicant shall identify the effect of the extraction on the groundwater table of the adjoining properties.
- 7.15.03 The application shall identify proposed vehicle and equipment storage areas;
- 7.15.04 Erosion controls, including retention and sediment basins shall be provided during extraction to prevent a change in the character of runoff onto adjacent land;
- 7.15.05 The surface shall be maintained in such a manner that surface waters do not collect or pond, unless specifically approved. Underground drainage may be supplied if it connects to an existing drainage facility;
- 7.15.08 Topsoil shall be collected and stored for redistribution on the site at the termination of the operation;
- 7.15.09 Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than three-to-one (3/1) as soon as possible. Safety screening shall be required at the outer boundary of the site; visual screening will also be required where said boundary is adjacent to residential or recreational land;
- 7.15.10 Within one year after completion of the excavation on any portion of the site, the topography and soils shall be stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public.

**Section 7.16 Waste Disposal Sites and Landfills**

- 7.16.01 A Conditional Use Permit may be granted for any waste material disposal, garbage disposal, or land fill operations in the designated zoning district; provided the following special conditions shall be considered:
  1. The effects on the adjacent property, traffic, and
  2. The public necessity and advantage,
  3. The maintenance of access routes related to all weather conditions and droppings of rubbish and litter,
  4. The effects on underground water quality,
  5. The immediate and long term effects on the environment and the public,
  6. The concerns for public safety,
  7. The application shall include documents to indicate conformance to all applicable governmental regulations and standards,
  8. The application shall include affidavits or permits from the Environmental Protection Agency and/or the Nebraska Department of Environmental Quality, in the event an approval is required by these agencies.

**Section 7.17.01 Purpose; Findings and Rationale**

1. *Purpose.* It is the purpose of this resolution to regulate adult establishments in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult establishments within the City. The provisions of this resolution have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this resolution to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this resolution to condone or legitimize the distribution of obscene material.
  
2. *Findings and Rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and

*Farkas v. Miller*, 151 F.3d 900 (8th Cir. 1998); *Jakes, Ltd. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *SOB, Inc. v. City of Benton*, 317 F.3d 856 (8th Cir. 2003); *Scope Pictures v. City of Kansas City*, 140 F.3d 1201 (8th Cir. 1998); *ILQ Invs. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *City of Lincoln v. ABC Books, Inc.*, 470 N.W.2d 760 (Neb. 1991); *Xiong v. City of Moorhead*, 2009 WL 322217 (D. Minn. Feb. 2, 2009); *Entm't Prods., Inc. v. Shelby City*, 721 F.3d 729 (6th Cir. 2013); *Lund v. City of Fall River*, 714 F.3d 65 (1st Cir. 2013); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita City*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); *Plaza Group Properties, LLC v. Spencer City Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Flanigan's Enters., Inc. v. Fulton City*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby City*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby City*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Peek-a-Boo Lounge v. Manatee City*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th

Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox City*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery City*, 256 F. Supp. 2d 385 (D. Md. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *DCR, Inc. v. Pierce City*, 964 P.2d 380 (Wash. Ct. App. 1998); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Fantasyland Video, Inc. v. City of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham City, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); *Major Liquors, Inc. v. City of Omaha*, 188 Neb. 628 (1972); *Jakes Ltd, Inc v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *Bzaps v City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *DLH Inc.v Nebraska Liquor Control Commission*, 266 Neb. 361(2003); *Village of Winslow v Sheets*, 261 Neb.203 (2001),

and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, “Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD,” *Journal of Urban Health* (2011); “Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analysis,” *Crime & Delinquency* (2012) (Louisville, KY); Metropolis, Illinois – 2011-12; Manatee City, Florida – 2007; Hillsborough City, Florida – 2006; Clarksville, Indiana – 2009; El Paso, Texas – 2008; Memphis, Tennessee – 2006; New Albany, Indiana – 2009; Louisville, Kentucky – 2004; Fulton City, GA – 2001; Chattanooga, Tennessee – 1999-2003; Jackson City, Missouri – 2008; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina – 2003; Dallas, Texas – 1997; Houston, Texas – 1997, 1983; Phoenix, Arizona – 1995-98, 1979; Tucson, Arizona – 1990; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Austin, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Los Angeles, California – 1977; Whittier, California – 1978; Oklahoma City, Oklahoma – 1986; New York, New York Times Square – 1994; the Report of the Attorney General's Working Group On The Regulation Of Adult establishments, (June 6, 1989, State of Minnesota); Dallas, Texas – 2007; “Rural Hotspots: The Case of Adult Businesses,” 19 *Criminal Justice Policy Review* 153 (2008); “Stripclubs According to Strippers: Exposing Workplace Sexual Violence,” by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; “Adult establishments: An Insider’s View,” by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Sex Store Statistics and Articles; and Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA), McLeary and Weinstein; Do “Off-Site Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory and Empirical Evidence, Law and Policy, Vol. 31, No. 2 (April 2009), Adult Business Study: Town and Village of Ellicottville, Cattaraugus City, New York (January 1998), the City Council finds:

- a. Adult establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity,

illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.

- b. Adult establishments should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult establishments, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult establishments in one area.
- c. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. Additionally, the City's interest in regulating adult establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the City. The City finds that the cases and documentation relied on in this resolution are reasonably believed to be relevant to said secondary effects.

The city hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

#### **Section 7.17.02 Regulations**

1. No person shall establish, operate, or cause to be operated an adult establishment in City of Tekamah within:
  - a. 1,000 feet of another adult establishment;
  - b. 500 feet of a business licensed to sell alcohol at the premises; or
  - c. 1,000 feet of a residential district, residential use, residence, church, educational institution, park, or recreational facility.
  - d. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the adult establishment to the closest point on a property boundary of another adult establishment, a business licensed to sell alcohol at the premises, a residential district, a residential use, a residence, a church, an educational institution, park, or a recreational facility.
2. No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.
3. No patron, employee of an adult establishment, or any other person shall knowingly or intentionally, in an adult establishment, appear in a state of nudity or engage in a specified sexual activity.
4. No person shall knowingly or intentionally, in an adult establishment, appear in a semi-nude condition unless the person is an employee of an adult establishment who, while semi-nude, remains at least six (6) feet from all patrons and on a stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.
5. No employee of an adult establishment who appears semi-nude in an adult establishment shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult establishment. No customer shall knowingly or intentionally touch such an employee of an adult establishment or the clothing of such an employee of an adult establishment on the premises of an adult establishment.

6. No person shall possess alcoholic beverages on the premises of an adult establishment.
7. No person shall knowingly or recklessly allow a person under the age of eighteen (18) years to be or remain on the premises of an adult establishment.
8. No operator of an adult establishment shall knowingly or recklessly allow a room in the adult establishment to be simultaneously occupied by any patron and any employee of an adult establishment who is semi-nude or who appears semi-nude on the premises of the adult establishment, unless an operator of the adult establishment is present in the same room.
9. A person who operates or causes to be operated an adult establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
  - a. The operator of the adult establishment shall, within one week of opening the adult establishment for business, submit to the City Zoning Officer a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches.
  - b. It shall be the duty of the operator of the adult establishment, and of any employees of the adult establishment present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
  - c. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
  - d. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.
  - e. It shall be the duty of the operator of an adult establishment to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
    - i. That the occupancy of viewing rooms less than 150 square feet is limited to one person.
    - ii. That specified sexual activity on the premises is prohibited.
    - iii. That the making of openings between viewing rooms is prohibited.
    - iv. That violators will be required to leave the premises.
    - v. That violations of these regulations are unlawful.
  - f. It shall be the duty of the operator of an adult establishment to enforce the regulations articulated in e.i. through e.v. above.

- g. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator of the adult establishment's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises have two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator of an adult establishment to ensure that at least one employee of an adult establishment is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator of an adult establishment, and it shall also be the duty of any employees of an adult establishment present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
  - h. It shall be the duty of the operator of an adult establishment to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
  - i. It shall be unlawful for a person having a duty under subsections 11.a. through 11.g above to knowingly or recklessly fail to fulfill that duty.
  - j. No patron shall knowingly or recklessly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.
  - k. No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.
  - l. No person shall knowingly or recklessly make any hole or opening between viewing rooms.
10. It shall be the duty of the operator of an adult establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.

## **ARTICLE 8: BOARD OF ADJUSTMENT**

### **Section 8.01 Members, Terms and Meetings**

Pursuant to Neb. Rev. Stat. §19-908 (R.R.S.1997): The Board of Adjustment shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. After September 9, 1995, the first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than two hundred (200) persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside of the corporate boundaries of the City but within its extraterritorial zoning jurisdiction. The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Neb. Rev. Stat. §§19-901 to 19-914. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board 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, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

### **Section 8.02 Appeals to Board, Record of Appeal, Hearings and Stays**

As provided in Neb. Rev. Stat. §19-909 (R.R.S.1997): Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of the appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

### **Section 8.03 Powers and Jurisdiction on Appeal**

The Board of Adjustment shall have the following powers: (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures; (2) to hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by this Ordinance to pass; and (3) to grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Ordinance,



or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

No such variance shall be authorized by the Board unless it finds that:

- a. The strict application of the Ordinance would produce undue hardship;
- b. such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- c. 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; and
- d. the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

In exercising the above mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such 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 this Ordinance.

#### **Section 8.04 Appeals to District Court**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Neb. Rev. Stat. §19-912 (R.R.S.1997).

## ARTICLE 9: AMENDMENTS AND ENFORCEMENT

### Section 9.01 Amendments

Pursuant to Neb. Rev. Stat. §19-905 (R.R.S.1997): This Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed. In case of a protest against such change, signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending three hundred feet (300') therefrom, and of those directly opposite thereto extending three hundred feet (300') from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of two-thirds (2/3) of all members of the City Council. The provisions of this section of the Ordinance relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than eighteen inches (18") in height and twenty-four inches (24") in width with a white or yellow background and black letters not less than one and one-half inches (1-1/2") in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten (10) days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars (\$50) or more than five hundred dollars (\$500). The provisions of this section in reference to notice shall not apply: (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the City.

### Section 9.02 Planning Commission Review

No amendment, supplement, change or modification of this Ordinance, including the boundaries of any zoning district, shall be made by the City Council without first the consideration by the City Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Council within forty-five (45) days after receipt thereof. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.

### Section 9.03 Zoning Administrator

The provisions of this Ordinance shall be administered and enforced by a Zoning Enforcement Officer appointed by the City Council, who shall have the power to make inspection of buildings or premises necessary to carry out his or her duties in the enforcement of this Ordinance.

### Section 9.04 Zoning Permits

The following shall apply to all new construction and all applicable renovations and remodels within Tekamah's Zoning Jurisdiction:

- 9.04.01 Applicable renovations and remodels shall include, but not be limited to, such activities as erecting, altering the physical dimensions of, or moving a structure, changing the use of land, and changing the use of a structure.
- 9.04.02 It shall be unlawful to commence the excavation for the construction of any building, or any accessory buildings, or to commence the moving or alteration of any buildings, including accessory buildings, until the Zoning Administrator has issued a zoning permit for such work.
- 9.04.03 Issuance of a Zoning Permit. In applying to the Zoning Administrator for a zoning permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the

shape, size and height and location of all buildings to be erected, altered or moved and of any building already on the lot. Applicant shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the Zoning Administrator for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this Ordinance, and other Ordinances of the City then in force, the Zoning Administrator shall issue a zoning permit for such excavation or construction. If a zoning permit is refused, the Zoning Administrator shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Zoning Administrator shall grant or deny the permit within thirty (30) days from the date the application is submitted. The issuance of a permit shall, in no case, be construed as waiving any provisions of this Ordinance. A zoning permit shall become void twelve (12) months from the date of issuance unless substantial progress has been made by that date on the project described therein.

### **Section 9.05 Certificate of Zoning Compliance**

No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Zoning Administrator shall have issued a certificate of occupancy stating that such land, building or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Ordinance. Within three (3) days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Zoning Administrator to make a final inspection thereof and to issue a Certificate of Zoning Compliance if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Ordinance, or, if such certification is refused, to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application.

### **Section 9.06 Penalties**

Pursuant to Neb. Rev. Stat. §19-913 (R.R.S.1997), the owner, or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500) for any one (1) offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. However, nothing shall deprive the citizen of his or her rights under the U.S. Constitution of a jury trial.

### **Section 9.07 Remedies**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of Neb. Rev. Stat. §§19-901 to 19-914 (R.R.S.1997), or this Ordinance, or any regulation made pursuant to said sections, the appropriate authorities of the City may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

## ARTICLE 10: COMPREHENSIVE PLAN RELATIONSHIP

These zoning ordinances are designed to implement various elements of the comprehensive plan as required by state statutes. Any amendment to the district ordinances or map shall conform to the comprehensive plan adopted by the governing body.

## ARTICLE 11: LEGAL STATUS PROVISIONS

### Section 11.01 Separability

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

### Section 11.02 Purpose of Catch Heads

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

### Section 11.03 Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

### Section 11.04 Effective Date

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

ADOPTED AND APPROVED by the Governing Body of Tekamah, Nebraska,

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

(Seal)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**ZONING ORDINANCE  
FOR THE CITY OF  
TEKAMAH, NEBRASKA**