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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 Creighton, Nebraska.

**Section 1.02 Purpose**

This ordinance has been prepared in accordance with a Comprehensive Development Plan and to promote the health, safety, and general welfare of the community; to lessen congestion in streets; to secure safety from fire and other dangers; to provide adequate light and air; to promote the distribution of population, land classifications and land development to support provisions for adequate transportation, water flows, water supply, drainage, sanitation, recreation, and other public requirements; to protect property against blight and depreciation; and to secure economy in governmental expenditures.

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**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, commission, trustee, receiver, agent, or other representative.
- 2.01.03 The word "shall" is mandatory.
- 2.01.04 The word "may" is permissive.
- 2.01.05 The word "Regulation" shall refer to the Creighton Zoning Ordinance.
- 2.01.06 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.
- 2.01.07 The word "Board" shall refer to the Board of Adjustment.
- 2.01.08 The word "commission" shall refer to the City of Creighton Planning Commission.
- 2.01.09 The word "Council" shall mean the City Council of Creighton, Nebraska.
- 2.01.10 The phrase Zoning Administrator shall refer to the designated Zoning Administrator for the City of Creighton.
- 2.01.11 Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.

**Section 2.02 Abbreviation and Acronyms**

For purposes of this Ordinance the following shall be standard abbreviations and acronyms found through the regulation.

- 2.02.01 AU = Animal Unit
- 2.02.02 CAFO = Confined Animal Feeding Operation
- 2.02.03 EPA = Environmental Protection Agency
- 2.02.04 FCC = Federal Communication Commission
- 2.02.05 FEMA = Federal Emergency Management Agency
- 2.02.06 FT = Foot or Feet
- 2.02.07 GIS = Geographic Information System
- 2.02.08 kV = Kilovolt
- 2.02.09 kW = Kilowatt
- 2.02.10 LFO = Livestock Feeding Operation
- 2.02.11 NDA = Nebraska Department of Aeronautics or successor department
- 2.02.12 NDEQ = Nebraska Department of Environmental Quality or successor department
- 2.02.13 NDNR = Nebraska Department of Natural Resources or successor department
- 2.02.14 NDOR = Nebraska Department of Roads or successor department
- 2.02.15 NHHS = Nebraska Department of Health and Human Services or successor department
- 2.02.16 NPDES = National Pollution Discharge Elimination System
- 2.02.17 NSFM = Nebraska State Fire Marshall or successor department
- 2.02.18 R.O.W. = Right-of-Way or Rights-of-Way
- 2.02.19 SF = Square Feet
- 2.02.20 SY = Square Yard
- 2.02.21 USDA = United States Department of Agriculture
- 2.02.22 YD = Yard

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**Section 2.03 Definitions**

- 2.03.01 **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.
- 2.03.02 **ABUT, ABUTTING** shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley
- 2.03.03 **ACCESS OR ACCESS WAY** shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Regulation.
- 2.03.04 **ACCESSORY BUILDING** see "Building, Accessory".
- 2.03.05 **ACCESSORY LIVING QUARTERS** shall mean living quarters within an accessory building located on the same premises with the main 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.
- 2.03.06 **ACCESSORY STRUCTURE** shall mean a detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.
- 2.03.07 **ACCESSORY USE** shall mean a use incidental, related, appropriate and clearly subordinate to the main 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.
- 2.03.08 **ACREAGE** shall mean any tract or parcel of land which does not qualify as a farm or development.
- 2.03.09 **ADJACENT** shall mean near, close, or abutting; for example, an Industrial District across the street, alley, or highway from a Residential District shall be considered as "Adjacent".
- 2.03.10 **ADULT CABARET** shall mean a nightclub, bar, restaurant or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which more than 10 percent of the total presentation time is devoted to the showing of material that is characterized by any emphasis upon the depiction of specified sexual activities or specified anatomical areas.
- 2.03.11 **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."
- 2.03.12 **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 without limitation, adult bookstores, adult motion picture theaters, saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.
- 2.03.13 **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."
- 2.03.14 **ADULT MASSAGE PARLOR, 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."
- 2.03.15 **ADULT MINI-MOTION PICTURE THEATER** shall mean a business premises within an enclosed building with a capacity for less than 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.

- 2.03.16 **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."
- 2.03.17 **ADULT MOTION PICTURE THEATERS** shall mean a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said 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.
- 2.03.18 **ADULT NOVELTY BUSINESS** shall mean a business which has as a principal activity the sale of devices which simulate human genitals or devices, which are designed for sexual stimulation.
- 2.03.19 **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."
- 2.03.20 **ADVERTISING STRUCTURE** shall mean any notice or advertisement, pictorial or otherwise, and all such structures 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 is not on the property with such Advertising Structure.
- 2.03.21 **AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES** shall mean any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men, 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.
- 2.03.22 **AGRICULTURAL OPERATIONS** see "Farming"
- 2.03.23 **AGRICULTURE** shall mean the use of land for agricultural purposes, of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any non-agricultural commercial or industrial development.
- 2.03.24 **AIRPORT** shall mean any area which is used or is intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or are intended to be used for airport buildings or facilities, including open spaces, taxiways, and tie-down areas.
- 2.03.25 **AIRPORT HAZARD ZONE** consists of Operation Zones, Approach Zones, Turning Zones and Transition Zones. The outer boundary of the Hazard Zone is composed of a series of connected tangents and simple curves that also constitute the outer boundaries of the Approach and Turning Zones.
- 2.03.26 **ALLEY** shall mean a minor public service street or public thoroughfare through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.
- 2.03.27 **ALTERATION** shall mean any change, addition or modification in construction or occupancy of an existing structure.
- 2.03.28 **ALTERATION, STRUCTURAL** see "Structural Alteration".
- 2.03.29 **AMENDMENT** shall mean a change in the wording, context, or substance of this Regulation, an addition or deletion or a change in the district boundaries or classifications upon the zoning map.
- 2.03.30 **AMUSEMENT ARCADE** shall mean a building or a part of a building where five or more pinball machines, video games, or other similar player-orientated amusement devices are available and are maintained for use.

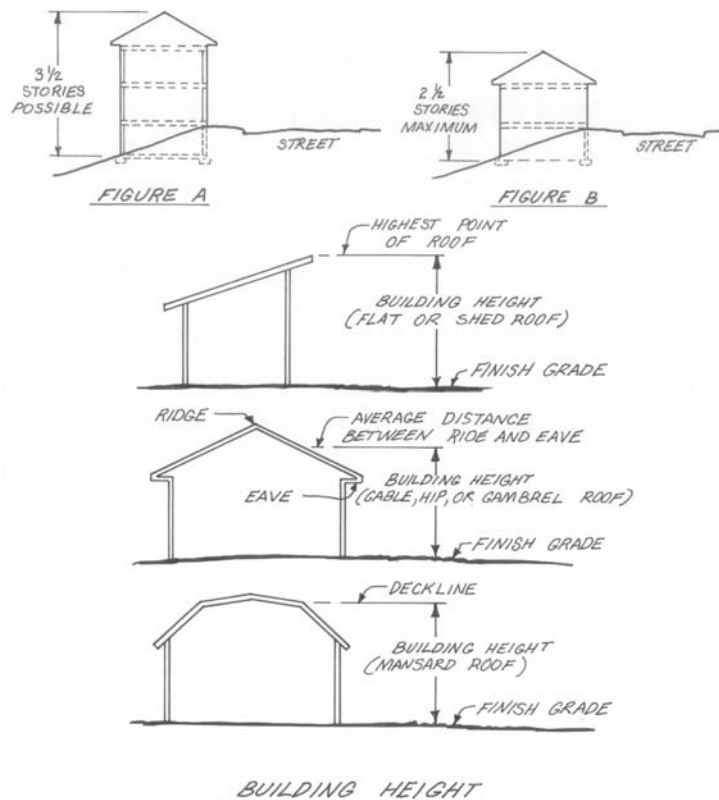
- 2.03.31 **AMUSEMENT PARK** shall mean a facility, primarily outdoors, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.
- 2.03.32 **ANIMAL HOSPITAL** shall mean an establishment for the care and treatment of small animals, including household pets.
- 2.03.33 **ANIMALS, DOMESTIC** see “Household Pet”
- 2.03.34 **ANIMAL UNIT** see “Livestock Feeding Operation”
- 2.03.35 **ANIMALS, FARM** shall mean livestock associated with agricultural operation, commonly kept or raised as a part of an agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens and turkeys.
- 2.03.36 **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 Towers.”
- 2.03.37 **ANTIQU** shall mean a work of art, piece of furniture, decorative object, or the like, of belonging to the past, at least 30 years old.
- 2.03.38 **ANTIQU** shall mean a place offering primarily antiques for sale.
- 2.03.39 **APARTMENT** shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping units. Also see “Dwelling Units.”
- 2.03.40 **APARTMENT HOTEL** is an apartment building under resident supervision which maintains an inner lobby through which all tenants must pass to gain access to the apartment and which may furnish services ordinarily furnished by hotels, such as drug store, barber shop, cosmetologists shop, cigar stand or newsstand, when such uses are located entirely within the building with no entrance from the street nor visible from any sidewalk, and having no sign or display visible from the outside of the building indicating the existence of such use.
- 2.03.41 **APARTMENT HOUSE** see “Dwelling, Multiple Family.”
- 2.03.42 **APPEARANCE** shall mean the outward aspect visible to the public.
- 2.03.43 **APPROPRIATE** shall mean the sympathetic, or fitting, to the context of the site and the whole community.
- 2.03.44 **APPURTENANCES** shall mean the visible, functional objects accessory to and part of buildings.
- 2.03.45 **ARCHITECTURAL CANOPY SIGN** see “Sign, Architectural Canopy”
- 2.03.46 **ARTISAN PRODUCTION SHOP** shall mean a building or portion thereof used for the creation of original handmade works of art or craft items by more than three but less than six artists or artisans, as either a principal or accessory use.
- 2.03.47 **ARTIST STUDIO** shall mean a place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan, or craftsperson, including persons engaged in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.
- 2.03.48 **ATTACHED PERMANENTLY** 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.
- 2.03.49 **ATTRACTIVE** shall mean having qualities that arouse interest and pleasure in the observer.
- 2.03.50 **AUTOMATIC TELLER MACHINE (ATM)** shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.

- 2.03.51 **AUTOMOBILE WRECKING 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.
- 2.03.52 **BALLROOM** shall mean a place or hall used for dancing, other than those listed under the definition of “Adult Cabaret”. Ballrooms shall also be used for reunions, weddings and receptions.
- 2.03.53 **BAR** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. Also see “Nightclub.”
- 2.03.54 **BASEMENT** shall mean the portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is more than the vertical distance from grade to ceiling.
- 2.03.55 **BEACON** shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.
- 2.03.56 **BED and BREAKFAST INN** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises.
- 2.03.57 **BEDROOM** shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door or doorway.
- 2.03.58 **BERM** shall mean a raised form of earth to provide screening or to improve the aesthetic character.
- 2.03.59 **BEST INTERESTS OF COMMUNITY** shall mean interests of the community at large and not interest of the immediate neighborhood.
- 2.03.60 **BIG BOX RETAIL STORE** shall mean a singular retail or wholesale user who occupies no less than 75,000 square feet of gross floor area, typically requires high parking to building area ratios and has a regional sales market. Regional retail/wholesale sales can include, but are not limited to, membership warehouse clubs that emphasize bulk sales, discount stores, and department stores.
- 2.03.61 **BILLBOARD** see “Sign, Billboard.”
- 2.03.62 **BLOCK** shall mean a parcel of land platted into lots and bounded by public streets or by waterways, right-of-ways, unplatted land, city-county boundaries, or adjoining property lines.
- 2.03.63 **BLOCK FRONTAGE** shall mean that section of a block fronting on a street between two intersecting streets or other block boundary.
- 2.03.64 **BOARD OF ADJUSTMENT** shall mean a board created by the City and has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.
- 2.03.65 **BOARDING OR ROOMING HOUSE** shall mean a building containing a single dwelling unit and provisions for not more than five guests, where lodging is provided with or without meals for compensation.
- 2.03.66 **BREW-ON PREMISES STORE** shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sell of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.
- 2.03.67 **BREW PUB** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging, shall not exceed 25 percent of the total floor area of the commercial space.
- 2.03.68 **BREWERY** shall mean an industrial use that brews ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined) annually.
1. **BREWERY, CRAFT** shall mean a brew pub or a micro brewery.



2. **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.
- 2.03.69 **BROADCASTING TOWER** shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceed the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding 100 feet in height shall not be considered broadcast towers.
- 2.03.70 **BUFFER** shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. Also see "Screening."
- 2.03.71 **BUFFER ZONE** shall mean an area of land that separates two zoning districts and/or land uses that acts to soften or mitigate the effects of one use on the other.
- 2.03.72 **BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Operable and licensed trailers, with wheels, shall not be considered as buildings.
- 2.03.73 **BUILDING ACCESSORY** shall mean any detached subordinate building that serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.
- 2.03.74 **BUILDING, AREA OF** shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.
- 2.03.75 **BUILDING CODE** shall mean the various codes of the City that regulate construction and requires building permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work regulated by the adopted building code of the City, and other codes adopted by the City that pertain to building construction.

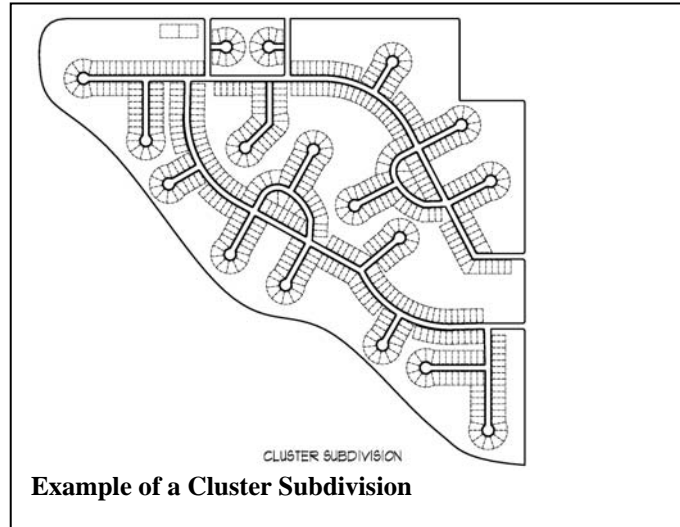
- 2.03.76 **BUILDING HEIGHT** shall mean the vertical distance measured from the curb level to the highest point of a roof surface, if a flat roof, to the deck line of mansard roofs, and to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.



- 2.03.77 **BUILDING PERMIT** is a written statement issued by the zoning administrator authorizing buildings, structures, or uses in accordance with the provisions of this Ordinance.
- 2.03.78 **BUILDING PRINCIPAL** shall mean a building within which the main or primary use of the lot or premises is located. Also, see "Principal Use."
- 2.03.79 **BUILDING SETBACK LINE** shall mean the minimum of distance as prescribed by this regulation between any property line and the closed point of the building line or face of any building or structure related thereto.

- 2.03.80 **CAMPGROUND** shall mean a parcel of land intended for the temporary occupancy of tents, campers, and major recreational vehicles and which primary purpose is recreational, having open areas that are natural in character.
- 2.03.81 **CAPACITY IN PERSONS** of an establishment or use is the maximum number of persons that can avail themselves of the services (or goods) of such establishment at any one time with reasonable safety and comfort, as determined in the Building Code (or other applicable codes) or as may be determined by the zoning administrator.
- 2.03.82 **CAR WASH** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles, not including semi-trailer tractors, buses, and commercial fleets.
- 2.03.83 **CAR WASH, INDUSTRIAL** shall mean a mechanical facility for the washing, waxing, and vacuuming of heavy trucks and buses.
- 2.03.84 **CARPORT** shall mean a permanent roofed structure with not more than two enclosed sides used or intended to be used for automobile shelter and storage.
- 2.03.85 **CELLAR** shall mean a building space having more than one-half of its height below the average adjoining grade lines.
- 2.03.86 **CEMETERY** shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbarium, crematoriums, and mausoleums.
- 2.03.87 **CENTRALIZED SEWER** shall mean a sewer system established by an individual(s), sanitary improvement district or developer for the purpose of serving two or more buildings, structures, and/or uses. Said system shall have a central point of sanitary waste collection and processing.
- 2.03.88 **CENTRALIZED WATER** shall mean a water supply system established by an individual(s), sanitary improvement district or developer for the purpose of serving two or more buildings, structures and/or uses. Said system shall have a central point(s) of supply with pressurized distribution from said supply point(s).
- 2.03.89 **CHANNEL** shall mean the geographical area within either the natural or artificial banks of a watercourse or drainage way.
- 2.03.90 **CHARITABLE** shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.
- 2.03.91 **CHILD CARE** shall mean the provision of care as follows:
1. To four or more children under age 13 at any time families other than that of the provider;
  2. For on the average of less than 12 hours per day;
  3. For compensation, either indirect or direct;
  4. On a regular basis; and
  5. By a person other than their parents/guardians.
- 2.03.92 **CHILD CARE CENTER** shall mean a facility licensed to provide child care for 13 or more children. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.
- 2.03.93 **CHURCH, STOREFRONT** shall mean a religious facility contained within a store or similar structure not typically used for religious activities that are now used as a meeting place for a congregation. Structures adapted for congregations including barns, stores, warehouses, old public buildings, and single-family dwellings.
- 2.03.94 **CITY** shall mean the City of Creighton, Nebraska.
- 2.03.95 **CLEAR VIEW ZONE** shall mean the area of a corner lot closest to the intersection that is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. Also see "Sight Triangle."
- 2.03.96 **CLINIC, MEDICAL OR DENTAL** is an organization of specializing physicians and/or dentists who have their offices in a common building. A clinic shall not include inpatient care.

- 2.03.97 **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.
- 2.03.98 **CLUSTER DEVELOPMENT** shall mean a development designed to concentrate buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive areas.
- 2.03.99 **CODE** shall mean the Municipal Code of the City of Creighton.
- 2.03.100 **COFFEE KIOSK** shall mean a retail food business in a freestanding building that sells coffee, or other beverages, and remade bakery goods from a drive-through window to customers seated in their automobiles for consumption off the premises and that provides no indoor or outdoor seating.
- 2.03.101 **COHESIVENESS** shall mean the unity of composition between design elements of a building and/or a group of buildings and the landscape development.
- 2.03.102 **COMMERCIAL FEEDING OPERATION** See "Livestock Feeding Operation."
- 2.03.103 **COMMISSION** shall mean the City of Creighton Planning Commission.
- 2.03.104 **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 Clustered/Mixed Use Development or condominium development.
- 2.03.105 **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.
- 2.03.106 **COMMUNITY SANITARY SEWER SYSTEM** shall mean an approved central sewer collecting system, meeting state and county requirements, available to each platted lot and discharging into a treatment facility. This does not include individual septic systems.
- 2.03.107 **COMMUNITY WATER SUPPLY SYSTEM** shall mean a public water supply system which serves at least fifteen service connections used by year round residents or uses, or regularly serves 25 or more year round residents or uses.
- 2.03.108 **COMPATIBILITY** shall mean harmony in the appearance of two or more external design features in the same vicinity.
- 2.03.109 **COMPATIBLE USES** shall mean a land use which is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.
- 2.03.110 **COMPREHENSIVE PLAN** shall mean the Comprehensive Development Plan of Creighton, Nebraska as adopted by the City Council, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in Section 19-901, R.R.S. 1943, as the same may, from time-to-time, be amended.
- 2.03.111 **CONDITIONAL USE** shall mean a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number,



size, area, location, relationship to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

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

2.03.113 **CONDOMINIUM** shall be as defined in the Nebraska State Statutes Section 76-824 - 76-894, the Condominium Law, whereby four or more apartments are separately offered for sale.

2.03.114 **CONFINEMENT** shall mean totally roofed buildings, which may be open-sided (for ventilation purposes only) or completely enclosed on the sides, wherein animals or poultry are housed over solid concrete or dirt floors, or slatted (partially open) floors over pits or manure collection areas in pens, stalls, cages, or alleys, with or without bedding materials and mechanical ventilation. The word "confinement" shall not mean the temporary confined feeding of livestock during seasonal adverse weather.

2.03.115 **CONFLICTING LAND USE** shall mean the use of property which transfers over neighboring property lines negative economic, or environmental effects, including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.

2.03.116 **CONGREGATE CARE FACILITY** see "elderly housing".

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

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

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

2.03.120 **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 or preserving the ability said land to be used for specific purposes such as on site wastewater treatment systems.

2.03.121 **CONVENIENCE STORE** shall mean a one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. (Also, see self-service Station.)

2.03.122 **CONTIGUOUS** shall mean the same as "Abut" or "Abutting".

2.03.123 **COPY CENTER** shall mean a retail establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment, and may include the collating and binding of booklets and reports.

2.03.124 **COURT** shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and abounded on two or more sides by such buildings.

1. **COURT, INNER** shall mean a court enclosed on all sides by the exterior walls of a building or buildings.
2. **COURT, OUTER** shall mean a court enclosed on all but one side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.

2.03.125 **COVERAGE** is the percentage of the lot covered by buildings and structures.

2.03.126 **CUL-DE-SAC** shall mean a short public way that has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

- 2.03.127 **CURVE LOT** see "Lot, Curve".
- 2.03.128 **DAIRY FARM** shall mean any place or premises upon which milk is produced for sale or other distribution.
- 2.03.129 **DENSITY** shall mean the number of dwelling units per acre of land allowable on a given tract or parcel of land.
- 2.03.130 **DEPARTMENT STORE** shall mean a business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed, enclosed and exhibited and sold directly to the customer for whom the goods and services are furnished.
- 2.03.131 **DETENTION BASIN** shall mean a facility for the temporary storage of stormwater runoff.
- 2.03.132 **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.
- 2.03.133 **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.
- 2.03.134 **DEVELOPMENT CONCEPT PLAN** See "Site Plan."
- 2.03.135 **DEVELOPMENT REVIEW** shall mean the review, by the City of subdivision plats, site plans, rezoning requests, or permit review.
- 2.03.136 **DISCOUNT CENTER** shall mean a single or group of stores, offering merchandise for sale at less than usual retail prices. Merchandise may be discounted due to either quantity price breaks or merchandise has been discontinued and discounted to another retailer.
- 2.03.137 **DISTRICT** is a section of the zoning area for which this Ordinance governing the use of the land, the height of buildings, the size of yards, and the intensity of use are uniform.
- 2.03.138 **DOG KENNEL** See "Kennel, Commercial"; and "Kennel, Private."
- 2.03.139 **DOMESTIC ANIMALS** See "Household Pet."
- 2.03.140 **DOWNZONING** shall mean a change in zoning classification of land to a less intensive or more restrictive district such as from commercial district to residential district or from a higher density to a lower density residential district.
- 2.03.141 **DRAINAGEWAY** shall mean any depression two feet or more 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; provided, that in the event of doubt as to whether a depression is a watercourse or drainageway, it shall be presumed to be a watercourse.
- 2.03.142 **DRIVE-IN FACILITY** shall mean an establishment where customers can be served without leaving the confinement of their vehicle.
- 2.03.143 **DRIVEWAY** shall mean any vehicular access to an off-street parking or loading facility.
- 2.03.144 **DUMP** shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process.
- 2.03.145 **DUPLEX** shall mean the same as "Dwelling, Two Family".
- 2.03.146 **DWELLING** shall mean any building or portion thereof which is designed and used exclusively for single family residential purposes, excluding mobile homes.
- 2.03.147 **DWELLING, DETACHED** is one which is entirely surrounded by open space on the same lot.

- 2.03.148 **DWELLING, MANUFACTURED HOME** shall mean a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.
- 2.03.149 **DWELLING, MOBILE HOME** shall mean any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or roller, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.
- 2.03.150 **DWELLING, MODULAR** (Is considered a conventional type single-family dwelling). Shall mean any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections. To be a modular home it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health and Human Services under the authority granted by Section 71-1555 through 71-1567 Revised Statutes of Nebraska 1943, in addition to any amendments thereto, those that do not meet the above criteria shall be considered a mobile home.
- 2.03.151 **DWELLING, MULTIPLE FAMILY** shall mean a building or buildings designed and used for occupancy by three or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.
- 2.03.152 **DWELLING, SEASONAL** shall mean a dwelling designed and used as a temporary residence and occupied less than six months in each year.
- 2.03.153 **DWELLING, SINGLE FAMILY** a building having accommodations for or occupied exclusively by one family which meet all the following standards:
1. The home shall have no less than 900 square feet of floor area, above grade, for single story construction;
  2. The home shall have no less than an 18 foot exterior width;
  3. The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run;
  4. The exterior material is of a color, material and scale comparable with those existing in residential site-built, single family construction;
  5. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or is a standing seam residential grade steel material, or rock;
  6. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
  7. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
  8. Permanent foundation: continuous perimeter base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.
- 2.03.154 **DWELLING, SINGLE-FAMILY (ATTACHED)** shall mean a one-family dwelling unit that is attached to one additional single-family dwelling. Said dwelling units are separated by an un-pierced common wall through the center of the structure that also sits along the property line separating ownership of the structure.
- 2.03.155 **DWELLING, TWO-FAMILY** shall mean a building designed or used exclusively for the occupancy of two families living independently of each other and having separate kitchen and toilet facilities for each family.
- 2.03.156 **DWELLING UNIT** shall mean one room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.
- 2.03.157 **EARTH-SHELTERED RESIDENCE** shall mean a residence designed as a complete structure below or partially below ground level, whose perimeter walls comply with the yard requirements of the district in which it is located, and which was not intended to serve as a substructure or foundation for a building.

- 2.03.158 **EASEMENT** shall mean an authorization by a property owner for the use by another, and for a specified purpose, of a designated part of his or her property.
- 2.03.159 **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, commercial, or private trade schools are not included in this definition.
- 2.03.160 **EFFECTIVE DATE** shall mean the date that this Ordinance shall have been adopted, amended, or the date land areas became subject to the regulations contained in this Ordinance as a result of such adoption or amendment.
- 2.03.161 **ELDERLY HOUSING** shall mean housing that provides residents with a program of assisted-living services to deal with the activities and instrumental activities of daily living.
- 2.03.162 **ELEEMOSYNARY INSTITUTION** shall mean any building or group of buildings devoted to and supported by charity.
- 2.03.163 **ENCROACHMENT** shall mean an advancement or intrusion beyond the lines or limits as designated and established by the Regulation, and to infringe or trespass into or upon the possession or right of others without permission.
- 2.03.164 **ENLARGEMENT** shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.
- 2.03.165 **ENVIRONMENTALLY CONTROLLED HOUSING** shall mean any livestock operation meeting the definition of a Livestock Feeding Operation (LFO) and is contained within a building which roofed, and may or may not have open sides and contains floors which are hard surfaced, earthen, slatted or other type of floor. The facility is capable of maintaining and regulating the environment in which the livestock are kept.
- 2.03.166 **ERECTED** shall mean constructed upon or moved onto a site.
- 2.03.167 **ESTABLISHMENT, BUSINESS** is a place of business carrying on operations, the ownership and management of which are separate and distinct from those of any other place of business located on the same lot.
- 2.03.168 **EXISTING AND LAWFUL** shall mean the use of a building, structure, or land was in actual existence, operation, and use, as compared to the use being proposed, contemplated, applied for, or in the process or being constructed or remodeled. In addition, the use must have been permitted, authorized, or allowed by law or any other applicable regulation prior to the enactment of a zoning regulation when first adopted or permitted, authorized or allowed by the previous zoning regulation prior to the adoption of an amendment to that zoning regulation.
- 2.03.169 **EXPRESSWAY** shall mean a street or road that provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.
- 2.03.170 **EXTERIOR BUILDING COMPONENT** shall mean an essential and visible part of the exterior of a building.
- 2.03.171 **EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits, in which the City has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers.
- 2.03.172 **FACADE** shall mean the exterior wall of a building exposed to public view from the building's exterior.
- 2.03.173 **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.

- 2.03.174 **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.
- 2.03.175 **FAMILY CHILD CARE HOME I** shall mean a child care operation in the provider's place of residence which serves between four and eight children at any one time. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.
- 2.03.176 **FAMILY CHILD CARE HOME II** shall mean a child care operation either in the provider's place of residence or a site other than the residence, serving twelve or fewer children at any one time. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.
- 2.03.177 **FARM** shall mean an area containing at least 20 acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. 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.
- 2.03.178 **FARMING** shall mean the planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in Nebraska with the necessary accessory uses for treating or storing the produce and the feeding of livestock as prescribed hereunder, provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.
- 2.03.179 **FARMSTEAD**, In contrast to a farmstead dwelling, a tract of land of not less than 1 acre and not more than 20 acres, upon which a farm dwelling and other outbuildings and barns existed at the time of the adoption of this resolution and was used for single-family resident purposes.
- 2.03.180 **FEED LOT** Feed lot shall mean the confinement of horses, sheep, pigs, and other food animals in buildings, lots, pens, pools, or ponds which normally are not used for raising crops or for grazing animals.
- 2.03.181 **FENCE** shall mean a structure serving as an enclosure, barrier or boundary.
1. **FENCE, OPEN** shall mean a fence, including gates, which has, for each one foot wide segment extending over the entire length and height of fence, 50 percent or more of the surface area in open spaces which affords direct views through the fence.
  2. **FENCE, SOLID** shall mean any fence that does not qualify as an open fence.
- 2.03.182 **FIREWORKS** shall mean any substance or combination of substances or articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, firecrackers, torpedoes, sky rockets, roman candles, daygo bombs, sparklers, or other fireworks containing any explosive or flammable compound, or any tablet or other device containing any explosive substance. Nothing in this regulation shall be construed as applying to toy paper caps containing not more than 0.25 of a grain (16.20 milligrams) of explosive composition per cap.
- 2.03.183 **FIREWORKS STAND** shall mean any portable building and/or structure used for the retail sale of fireworks, usually on a temporary basis.
- 2.03.184 **FIREWORKS STORAGE** shall mean any permanent building and/or structure where fireworks are stored for any portion of a year provided there is no retail sales made from the storage location. Said storage facility may also be used for the delivery and distribution of fireworks on a wholesale basis.
- 2.03.185 **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. (2) The unusual and rapid accumulation of runoff of surface water from any source.
- 2.03.186 **FLOOD PLAIN** means any land area susceptible to being inundated by water from any source (see definition of "flooding").
- 2.03.187 **FLOODWAY** means the channel of the river or other 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.



- 2.03.188 **FLOOR AREA** whenever the term "floor area" is used in this Regulation as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.
- 2.03.189 **FOOD SALES** shall mean establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.
1. **FOOD SALES (LIMITED)** shall mean food sales establishments occupying 10,000 square feet or less of space.
  2. **FOOD SALES (GENERAL)** shall mean food sales establishments occupying more than 10,000 square feet of space. Typically a supermarket.
- 2.03.190 **FRONTAGE** shall mean that portion of a parcel of property which abuts a dedicated public street or highway.
- 2.03.191 **GARAGE, PRIVATE** shall mean a detached accessory building or a portion of a main building on the same lot as a dwelling for the housing of vehicles of the occupants of the dwelling, including carports.
- 2.03.192 **GARAGE, PUBLIC** shall mean any garage other than a private garage.
- 2.03.193 **GARAGE, REPAIR** 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 as a commercial business. Also see "Service Station".
- 2.03.194 **GARAGE, STORAGE** is a building or portion thereof, designed or used exclusively for storage of motor-driven vehicles and at which motor fuels and oils may be sold without exterior advertising and where motor-driven vehicles are not equipped, repaired, hired, or sold.
- 2.03.195 **GARBAGE** shall mean any waste food material of an animal or vegetable nature, including that which may be used for the fattening of livestock.
- 2.03.196 **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.
- 2.03.197 **GRADE** shall mean the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.
- 2.03.198 **GRAPHIC ELEMENT** shall mean a letter, illustration, symbol, figure, insignia, or other device employed to express and illustrate a message or part thereof.
- 2.03.199 **GREENHOUSE** shall mean a building or premises used for growing plants, preparation of floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.
- 2.03.200 **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.
- 2.03.201 **GROUND COVER** shall mean plant material used in landscaping which remain less than 12 inches in height at maturity. Also see "Landscaping".
- 2.03.202 **GROUND WATER** shall mean water occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.
- 2.03.203 **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 hour care for individuals in a residential setting.
- 2.03.204 **GROUP HOME FOR THE HANDICAPPED** shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like

environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. 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;
2. A record of having such an impairment; or
3. Being regarded as having such impairment.

Handicap shall not include current, illegal use of or addiction to a controlled substance as defined in Neb. Rev. Stat. §28-401. (R.R.S.Supp, 2000).

2.03.205 **GROUP HOUSING** shall mean two or more separate buildings on a lot, each containing one or more dwelling units.

2.03.206 **GUEST ROOM** shall mean a room which is designed to be occupied by one or more guest for sleeping purposes, having no kitchen facilities, not including dormitories.

2.03.207 **HALF-STORY** shall mean a story under a gable, hip or gambrel roof, plates of which are not more than three feet above the floor of such story.

2.03.208 **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.

2.03.209 **HARD SURFACED** shall mean any surface used for movement of vehicular and / or pedestrians which is properly designed and paved with either asphalt or concrete.

2.03.210 **HAZARDOUS WASTE** shall mean waste products of industrial or chemical process including finished surplus, used, contaminated or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.

2.03.211 **HEALTH CLUB** shall mean privately owned for profit facilities such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.

2.03.212 **HEALTH RECREATION FACILITY** shall mean an indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa and/or sauna and pro shop.

2.03.213 **HEDGE** shall mean a plant or series of plants, shrubs or other landscape material, so arranged as to form a physical barrier or enclosure.

2.03.214 **HEIGHT OF BUILDING** shall mean the vertical distance above grade to the highest point of the coping of a flat roof, of the peak of a gable roof, or of any other type of pitched, hipped, or mansard roof. The grade may mean the highest adjoining sidewalk or ground surface within a 5 foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than 10 feet above grade. The height of a stepped or terraced building is the maximum height of any segment of the building.

2.03.215 **HOLDING POND** shall mean an impoundment made by constructing an excavated pit, dam, embankment, or combination of these for temporary storage of liquid livestock wastes.

2.03.216 **HOME BUSINESS** shall mean an "in-home" or "home based" or entrepreneurial business, industry, service or other concern (not including uses defined as Adult Establishment) within part or all of an accessory structure on the same property. Home businesses are considered secondary in nature to the primary use of the structure and/or property only in agricultural zoned districts. Such businesses may employ up to two individuals not residing on the premises.

2.03.217 **HOME FOR THE AGED** see "Long-term Care Facility".

2.03.218 **HOME IMPROVEMENT CENTER** shall mean a facility of more than 30,000 square feet of gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, paint and glass, house wares and household appliances, garden supplies, and cutlery.

- 2.03.219 **HOME OCCUPATION** shall mean an “in-home” or “home based” or entrepreneurial business operating from a residential dwelling within Creighton. Home occupations are considered accessory uses to properties in all zoning districts.
- 2.03.220 **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.
- 2.03.221 **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 motel, and tourist court.
- 2.03.222 **HOUSE TRAILER** see “Dwelling, Mobile Home”.
- 2.03.223 **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.
- 2.03.224 **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 rock, gravel, or clay and conventionally surfaced streets, roots, sidewalks, parking lots, and driveways.
- 2.03.225 **INCIDENTAL USE** shall mean a use, which is subordinate to the main use of a premise.
- 2.03.226 **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 including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.
- 2.03.227 **INFILL DEVELOPMENT** shall mean the construction of a building or structure on a vacant parcel located in a predominately built up area.
- 2.03.228 **INFILL SITE** shall mean any vacant lot, parcel, or tract of land within developed areas of the City, where at least 80 percent of the land within a 300-foot radius of the site has been developed, and where water, sewer, streets, schools, and fire protection have already been constructed or are provided.
- 2.03.229 **INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which may or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle which is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.
- 2.03.230 **INSTITUTIONAL BUILDING** shall mean a public and public/private group use of a nonprofit nature, typically engaged in public service (i.e. houses of worship, nonprofit cultural centers, charitable organizations).
- 2.03.231 **INTENSITY** shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.
- 2.03.232 **INTENT AND PURPOSE** shall mean that the Commission and Council, by the adoption of this Regulation, have made a finding that the health, safety, and welfare of the community will be served by the creation of the District and by the regulations prescribed therein.
- 2.03.233 **JUICE BAR** see “Adult Establishment”.
- 2.03.234 **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.

- 2.03.235 **KENNEL, BOARDING AND TRAINING** shall mean any lot or premises on which three or more dogs, cats or non-farm/non-domestic or any combination of five or more thereof, at least four months of age, are boarded, bred, or trained for a fee.
- 2.03.236 **KENNEL, COMMERCIAL** shall mean an establishment where three or more dogs, cats, or other household pets, or non-farm/non-domestic or any combination of five or more thereof, at least four months of age are groomed, bred, boarded, trained, or sold as a business.
- 2.03.237 **KENNEL, PRIVATE** shall mean the keeping, breeding, raising, showing, or training of four or more dogs over six months of age for personal enjoyment of the owner or occupants of the property, and for which commercial gain is not the primary objective.
- 2.03.238 **LAGOON** shall mean a wastewater treatment facility which 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.
- 2.03.239 **LANDFILL** shall mean a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.
- 2.03.240 **LANDSCAPE** shall mean plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.
- 2.03.241 **LANDSCAPING** shall include the original planting of suitable vegetation in conformity with the requirements of this Ordinance and the continued maintenance thereof.
- 2.03.242 **LAUNDRY, SELF SERVICE** shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.
- 2.03.243 **LIFE CARE FACILITY** shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals and culminating in full health and continuing care nursing home facility. Also see “Congregate Housing”.
- 2.03.244 **LIGHT CUT-OFF ANGLE** shall mean an angle from vertical, extending downward from luminaries, which defines the maximum range of incident illumination outward at the ground plane.
- 2.03.245 **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.
- 2.03.246 **LIQUID MANURE** shall mean that type of livestock waste that is in liquid form, collected in liquid manure pits or lagoons and which can be sprayed or injected beneath the surface.
- 2.03.247 **LIQUID MANURE STORAGE PITS** shall mean earthen or lined pits wholly or partially beneath a semi or totally housed (ECH) livestock operation or at some removed location used to collect waste production.
- 2.03.248 **LIVESTOCK** See “Animals, Farm”.
- 2.03.249 **LIVESTOCK FEEDING OPERATION (LFO)** shall mean any farming operation exceeding the per acre Animal Unit (A.U.) ratio as defined under “farming” or the feeding, farrowing, or raising cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more than six months in any one calendar year, and where the number of animals so maintained exceeds 300 Animal Units as defined below. 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 or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes. Animal Units (A.U.) are defined as follows:  
One (1) A.U.= One Cow/Calf combination  
One (1) A.U.= One Slaughter, Feeder Cattle;  
One (1) A.U.= One Horse;  
One (1) A.U.= Seven Tenths Mature Dairy Cattle;

One (1) A.U.= Two and One Half Swine (55 pounds or more);  
 One (1) A.U.= Twenty Five Weaned Pigs (less than 55 pounds);  
 One (1) A.U.= Two Sows with Litters;  
 One (1) A.U.= Ten Sheep;  
 One (1) A.U.= One Hundred Chickens;  
 One (1) A.U.= Fifty Turkeys;  
 One (1) A.U.= Five Ducks.

2.03.250 **LIVESTOCK WASTES** shall mean animal and poultry excreta and associated feed losses, bedding, spillage, or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto a livestock operation, and other materials polluted by livestock or their direct product.

2.03.251 **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.

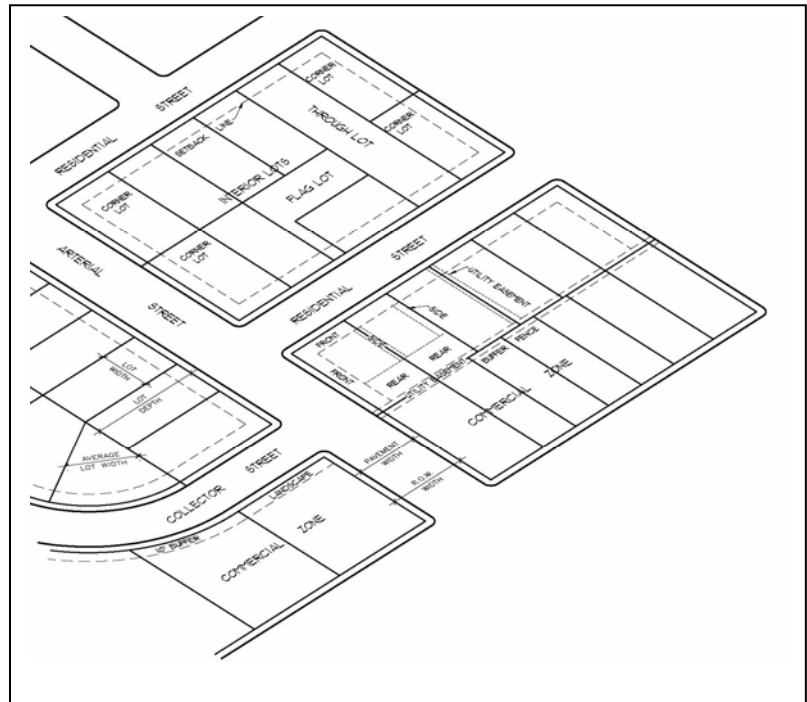
2.03.252 **LONG-TERM CARE FACILITY** shall mean a facility as defined in Title 15, Chapter 3 Nebraska Department of Health and Human Services and NRS Section 71-2017.01. These facilities include:

1. Nursing facilities
2. Boarding home
3. Adult Care Home
4. Assisted Living Facility
5. Center for the Developmentally Disabled
6. Group Residence
7. Swing Bed
8. Adult Day Care

2.03.253 **LOT** shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Register of Deeds and abutting at least one public street or right-of-way, or one private road.

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

2.03.255 **LOT, CORNER** shall mean a lot located at the intersection of two or more streets.



2.03.256 **LOT COVERAGE** shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.

2.03.257 **LOT, CURVE** shall mean a lot fronting on the outside curve of the right-of-way of a curved street.

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

- 2.03.259 **LOT, DOUBLE FRONTAGE** shall mean a lot having a frontage on two as distinguished from a corner lot.
- 2.03.260 **LOT, FLAG** shall mean a lot with frontage and access provided to the bulk of the lot by means of a narrow corridor. Lot width of a flag lot shall be met
- 2.03.261 **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.
- 2.03.262 **LOT, INTERIOR** shall mean a lot other than a corner lot.
- 2.03.263 **LOT LINE** shall mean the property line bounding a lot.
1. **LOT LINE, FRONT** shall mean the property line abutting a street.
  2. **LOT LINE, REAR** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.
  3. **LOT LINE, SIDE** shall mean any lot line not a front lot line or rear lot line.
- 2.03.264 **LOT, NONCONFORMING** 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 Knox County Register 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 Regulation.
- 2.03.265 **LOT THROUGH** shall mean a lot having frontage on two dedicated streets, not including a corner lot.
- 2.03.266 **LOT OF RECORD** shall mean a lot held in separate ownership as shown on the records of the Knox County Register of Deeds at the time of the passage of a regulation or regulation establishing the zoning district in which the lot is located.
- 2.03.267 **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.
- 2.03.268 **MANUFACTURED HOME PARK** shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. The term "manufactured home park" does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.
- 2.03.269 **MANUFACTURED HOME SUBDIVISION** shall mean any area, piece, parcel, tract or plot of ground subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.
- 2.03.270 **MANUFACTURING** shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are 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.
- 2.03.271 **MAP, OFFICIAL ZONING DISTRICT** shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Creighton City Council.
- 2.03.272 **MASSAGE ESTABLISHMENT** shall mean any building, room, place, or establishment other than a regularly licensed and established hospital or dispensary where non-medical or non-surgical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational and/or physical therapist, chiropractor, or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing device. Said establishment shall comply with all state regulations as per §71-1,278 through §71-1,283, Nebr. R.R.S., 1943
- 2.03.273 **MASSAGE PARLOR** see "Adult Establishment".

- 2.03.274 **MASTER FEE SCHEDULE** shall mean a fee schedule maintained by the City of Creighton and passed, and amended periodically, which establishes the required fees to be collected for specific Planning, Zoning, Subdivision, and Building Inspection activities.
- 2.03.275 **MECHANICAL EQUIPMENT** shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.
- 2.03.276 **MINI-STORAGE OR MINI-WAREHOUSE** See “Self-Service Storage Facility”.
- 2.03.277 **MISCELLANEOUS STRUCTURES** shall mean structures, other than buildings, visible from public ways. Examples are: memorials, staging, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, transformers, drive-up facilities.
- 2.03.278 **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.
- 2.03.279 **MOBILE HOME** See “Dwelling, Mobile Home”.
- 2.03.280 **MOBILE HOME PARK** See “Manufactured Home Park”.
- 2.03.281 **MOBILE HOME SUBDIVISION** See “Manufactured Home Subdivision”.
- 2.03.282 **MONOTONY** shall mean repetitive sameness, lacking variety and variation, and/or reiteration.
- 2.03.283 **MOTEL** See “Hotel”.
- 2.03.284 **MOTOR VEHICLE** shall mean every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs.
- 2.03.285 **NEBRASKA REVISED REISSUED STATUTES**, 1943 and the abbreviated term Nebr. R. R. S., 1943 are one and the same.
- 2.03.286 **NIGHTCLUB** shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided, except as defined under Adult Cabaret. Also see “Bar”.
- 2.03.287 **NON-COMMUNITY WATER SUPPLY SYSTEM** shall mean any public water supply system that is not a community water supply system.
- 2.03.288 **NON-CONFORMING BUILDING** shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.
- 2.03.289 **NON-CONFORMING USE** shall mean a use lawful when established but which does not conform to subsequently established zoning or zoning regulation.
- 2.03.290 **NON-FARM BUILDINGS** are all buildings except those buildings utilized for agricultural purposes on a farmstead of twenty acres or more which produces one thousand dollars or more of farm products each year.
- 2.03.291 **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.
- 2.03.292 **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.
- 2.03.293 **NURSING HOME** see “Congregate Care Facility”.
- 2.03.294 **NURSERY SCHOOL** see “Preschool”.

- 2.03.295 **OFFICE** shall mean a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.
- 2.03.296 **OFFICIAL MAP** See “Map, Official Zoning District”.
- 2.03.297 **OFF-STREET PARKING AREA or VEHICULAR USE** shall refer to 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.
- 2.03.298 **OPEN LOTS** 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.
- 2.03.299 **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.
- 2.03.300 **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.
- 2.03.301 **OUTLOT** shall mean a lot remnant or parcel of land left over after platting, which is intended as open space or other designated use.
- 2.03.302 **OUTDOOR ADVERTISING** shall include the definitions of "Advertising Structure" and "Sign".
- 2.03.303 **OVERLAY DISTRICT** shall mean a district in which additional requirements act in conjunction with the underlying zoning district. The original zoning district designation does not change.
- 2.03.304 **OWNER** shall mean one or more persons, including corporations, who have title to the property, building or structure in question.
- 2.03.305 **PAINTBALL** shall mean all guns and other devices used for the purpose of firing pellets containing a latex paint at a person or target.
- 2.03.306 **PAINTBALL COURSE, COMMERCIAL** shall mean a commercial recreational park containing obstacle courses for the purpose of staging paintball battles. Said facility generally collects a fee, either as membership or on a visit by visit basis that allows individuals to participate in paintball activities.
- 2.03.307 **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.
- 2.03.308 **PARK** shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.
- 2.03.309 **PARKING AREA, PRIVATE** shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.
- 2.03.310 **PARKING AREA, PUBLIC** shall mean an area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.
- 2.03.311 **PARKING SPACE, AUTOMOBILE** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine feet by 20 feet, plus such additional area as is necessary to afford adequate ingress and egress.
- 2.03.312 **PARKWAY** shall mean an arterial highway with full or partial control of access, and located within a park or ribbon of park like development.

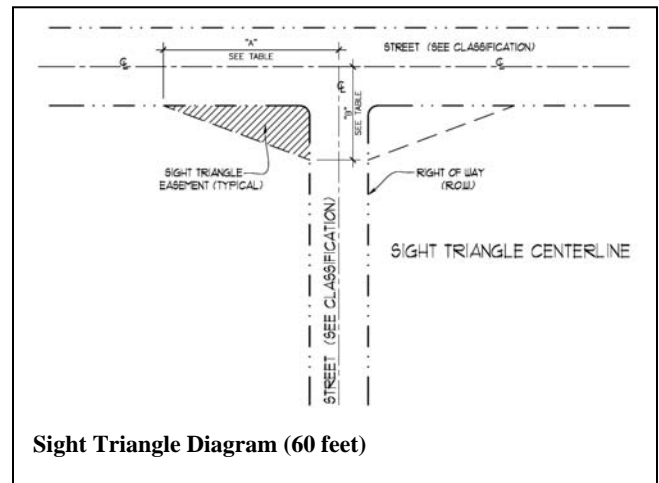


- 2.03.313 **PERFORMANCE GUARANTEE** shall mean a financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with these regulations as well as with approved plans and specifications of a development.
- 2.03.314 **PERMANENT FOUNDATION** 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.
- 2.03.315 **PERMANENT TREE PROTECTION DEVICES** shall be structural measures, such as retaining walls or aeration devices that are designed to protect the tree and its root systems throughout its lifetime.
- 2.03.316 **PERMANENTLY ATTACHED** shall mean connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.
- 2.03.317 **PERMITTED USE** shall mean any land use allowed without condition within a zoning district.
- 2.03.318 **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 Creighton, Nebraska.
- 2.03.319 **PET SHOP** shall mean a retail establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals such as horses, cattle, goats, sheep and poultry.
- 2.03.320 **PLANNED UNIT DEVELOPMENT** shall mean a development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan.
- 2.03.321 **PLANNING COMMISSION** shall mean the City of Creighton Planning Commission.
- 2.03.322 **PLANT MATERIALS** shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs.
- 2.03.323 **PLAT** shall mean a map showing the location, boundaries, and legal description of individual properties.
- 2.03.324 **POLICY** shall mean a statement or document of the City, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.
- 2.03.325 **POULTRY, COMMERCIAL FEEDING** shall mean a poultry commercial feed lot, whether the confined feeding operations are enclosed or outdoors.
- 2.03.326 **PREMISES** shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.
- 2.03.327 **PRESCHOOL** shall mean an early childhood program which provides primarily educational services, where children do not nap and where children are not served a meal.
- 2.03.328 **PRINCIPLE USE** shall mean the primary or predominant use of any lot, building, or structure.
- 2.03.329 **PRIVATE WELL** shall mean a well that provides water supply to less than 15 service connections and regularly serves less than 25 individuals.
- 2.03.330 **PROHIBITED USE** shall mean any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.
- 2.03.331 **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 not 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.

- 2.03.332 **PROPORTION** shall mean a balanced relationship of parts of a building, landscape, structures, or buildings to each other and to the whole.
- 2.03.333 **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.
- 2.03.334 **PUBLIC FACILITY** shall mean any building, location, or structure, owned by a public entity such as a library, fire station, school, park, and other similar facilities and uses.
- 2.03.335 **PUBLIC USE** shall mean a specified activity or area that either through actual public ownership or through dedication of easements allows the general public access and use.
- 2.03.336 **PUBLIC UTILITY** shall mean any business which furnishes the general public telephone service, telegraph service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.
- 2.03.337 **PUBLIC WATER SUPPLY** shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. This definition shall include: (1) Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.
- 2.03.338 **PUBLIC WAY** is any sidewalk, street, alley, highway, easement, or other public thoroughfare.
- 2.03.339 **RAILROAD** shall mean the land use including the right-of-way (R. O. W.) 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.
- 2.03.340 **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.
- 2.03.341 **RECREATIONAL VEHICLE (RV)** shall mean a vehicular unit less than 40 feet in overall length, eight feet in width, or 12 feet in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.
- 2.03.342 **RECREATIONAL VEHICLE (RV) PARK** shall mean a tract of land upon which two 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.
- 2.03.343 **REMODELING** shall mean any change in a structure (other than incidental repairs and normal maintenance) which may prolong its useful life; or the construction of any addition to, or enlargement of, a structure; or the removal of any portion of a structure.
- 2.03.344 **RESIDENCE** shall mean a building used, designed, or intended to be used as a home or dwelling place for one or more families.
- 2.03.345 **RESTAURANT** shall mean a public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.
1. **RESTAURANT, DRIVE-IN** shall mean an 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. **RESTAURANT, ENTERTAINMENT** shall mean an 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.

3. **RESTAURANT, FAST FOOD** shall mean an 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.
- 2.03.346 **RETAIL TRADE** shall mean uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption.
- 2.03.347 **RETENTION BASIN** shall mean a pond, pool, or basin used for the permanent storage of stormwater runoff.
- 2.03.348 **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.
- 2.03.349 **REZONING** shall mean an amendment to or change in the zoning regulations either to the text or map or both.
- 2.03.350 **REZONING, PIECEMEAL** shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.
- 2.03.351 **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.
- 2.03.352 **ROAD** shall mean the same as "Street".
- 2.03.353 **ROAD, PRIVATE** shall mean a way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties. Also see "Right-of-Way" and "Street".
- 2.03.354 **ROAD, PUBLIC** shall mean a public right-of-way reserved or dedicated for street or road traffic. Also see "Right-of-Way" and "Street".
- 2.03.355 **ROADSIDE STAND** is a structure for the display and sale of agricultural products, fireworks, and similar seasonal products and is not enclosed on all sides.
- 2.03.356 **ROOM** shall mean an un-subdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.
- 2.03.357 **SALVAGE 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 that are a result of the dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see "Automobile Wrecking Yard".
- 2.03.358 **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.
- 2.03.359 **SCHOOL, DAY** shall mean a preschool or nursery school for children.
- 2.03.360 **SCHOOL, DAY, PRE-, OR NURSERY** shall mean a school or center for children under school age, whether licensed as a day care center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards.
- 2.03.361 **SCREENING** shall mean a structure of planting that conceals from view from public ways the area behind such structure or planting.
- 2.03.362 **SELECTIVE CLEARING** shall be the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures.

- 2.03.363 **SELF-SERVICE STATION** shall mean an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.
- 2.03.364 **SELF-SERVICE STORAGE FACILITY** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.
- 2.03.365 **SEPARATE OWNERSHIP** shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.
- 2.03.366 **SERVICE STATIONS** 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.
- 2.03.367 **SETBACK LINE, FRONT YARD** shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line or highway setback line when one has been established.
- 2.03.368 **SETBACK LINE, REAR YARD OR SIDE YARD** shall mean the line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, removed wherefrom by the perpendicular distance prescribed for the yard in the district.
- 2.03.369 **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.
- 2.03.370 **SHOPPING CENTER, COMMERCIAL 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.
- 2.03.371 **SHOPPING CENTER, OUTLET** shall mean a commercial development that consists mostly of manufacturers' outlet stores selling their own brands at a discounted price. This definition includes all forms of centers, such as strip style, enclosed mall style, and village clustered style centers.
- 2.03.372 **SHRUB** shall mean a multi-stemmed woody plant other than a tree.
- 2.03.373 **SIDEWALK CAFE** shall mean an area adjacent to a street level eating or drinking establishment located adjacent to the public pedestrian walkway and used exclusively for dining, drinking, and pedestrian circulation. The area may be separated from the public sidewalk by railings, fencing, or landscaping or a combination thereof.
- 2.03.374 **SIGHT TRIANGLE** is 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.
- 2.03.375 **SIGN, ADVERTISING** shall mean a sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.



2.03.376 **SIGN, ANIMATED** shall mean any sign that uses movement or change of lighting to depict action or create a special effect or scene.

2.03.377 **SIGN, ANNOUNCEMENT** shall mean a small announcement or professional signs.

2.03.378 **SIGN, ARCHITECTURAL CANOPY** shall mean an enclosed, illuminated (backlit awning) or non-illuminated structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the sign's area integrated into its surface.



Banner Sign

2.03.379 **SIGN AREA** of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated

2.03.380 **SIGN, AUDIBLE** shall mean any sign that conveys either a written message supported by an audible noise including music, spoken message, and / or sounds to attract attention to the sign. Audible signs also include signs conveying only the audible noise including music, spoken message, and / or sounds to attract attention.

2.03.381 **SIGN, AWNING OR CANOPY** shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

2.03.382 **SIGN, BANNER** shall mean any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or official flag of any institution or business shall not be considered banners. Banner signs shall not represent a commercial message.

2.03.383 **SIGN, BILLBOARD** shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

2.03.384 **SIGN, BUILDING** shall mean any sign supported by, painted on or otherwise attached to any building or structure.

2.03.385 **SIGN, BUILDING MARKER** shall mean any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.



Sign, Building Marker

2.03.386 **SIGN, CENTER IDENTIFICATION** shall mean any sign erected to provide direction to a development including multiple uses and / or structures within the development. Center Identification signs shall include the name of said development and may include, when permitted, the names of major tenants of the development. Center Identification Signs shall typically be similar to Ground (Monument) signs.



Sign, Ground Monument  
Sign, Changeable Copy

2.03.387 **SIGN, CHANGEABLE COPY** shall mean a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without, altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered

an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a “time and temperature” portion of a sign and not a changeable copy sign for purposes of this ordinance.

2.03.388 **SIGN, CLOSED** shall mean a sign in which more than 50 percent of the entire area is solid or tightly closed or covered.

2.03.389 **SIGN, COMMERCIAL MESSAGE** shall mean any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

2.03.390 **SIGN, DESTINATION** shall mean a sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the most simple, direct, and concise manner possible.

2.03.391 **SIGN, ELECTRONIC MESSAGE BOARD** shall mean a sign that displays a message or messages wherein the sequence of messages and the rate at which they change can be modified by electronic processes.

2.03.392 **SIGN, FLASHING** shall mean a sign, which, by method or manner of display, blinks with varying light intensity, shows motion, or creates the illusion of motion.

2.03.393 **SIGN, FREESTANDING** shall mean any sign supported by upright posts or poles which is used principally for advertising or identification purposes and is not attached to any structure.

2.03.394 **SIGN, ILLUMINATED** shall mean a sign illuminated in any manner.

2.03.395 **SIGN, INCIDENTAL** shall mean a sign, generally informational, that is located in the zone lot on which it is located, such as “no parking,” “entrance,” or other similar directives. No sign with a commercial message legible from the street or highway shall be considered incidental. Incidental signs may be located on the same lot as a commercial sign.



Sign, Billboard  
Sign, Off-Premises

2.03.396 **SIGN, MARQUEE** shall mean any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

2.03.397 **SIGN, MONUMENT** shall mean a sign mounted directly to the ground.

2.03.398 **SIGN, NAMEPLATE** shall mean a sign not exceeding 2 square feet for each dwelling.

2.03.399 **SIGN, NON-CONFORMING** shall mean any sign that does not conform to the requirements of this ordinance.

2.03.400 **SIGN, OBSOLETE** shall mean a sign that advertises a business no longer in existence or a product no longer offered for sale and has advertised such business or product for a period of six months after the termination of the existence of such business or the termination of sale of the product advertised.

2.03.401 **SIGN, OFF-PREMISES** shall mean a sign including the supporting sign structure which directs the attention of the general public to a business, service, or activity not usually conducted, or a product not offered or sold, upon the premises where such sign is located.



Sign, Projecting

2.03.402 **SIGN, ON-PREMISE** shall mean a sign, display, or device-advertising activities conducted on the property on which such sign is located.

2.03.403 **SIGN, OPEN** shall mean a sign attached to or hung from a marquee, canopy, or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.

2.03.404 **SIGN, PENNANT** shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

2.03.405 **SIGN, POLE** shall mean a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

2.03.406 **SIGN, PORTABLE** shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character. Examples are: menu and sandwich board signs, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations (deliveries and transportation of personnel) of the business. This definition also includes any and all sandwich boards supported by human beings or animals.

2.03.407 **SIGN, PROJECTING** shall mean a projecting sign attached to a building in such a manner that its leading edge extends more than eight inches beyond the surface of such building or wall.

2.03.408 **SIGN, REAL ESTATE** shall mean a temporary sign that identifies property or properties that are for sale or lease.

2.03.409 **SIGN, ROOF** shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on and over the roof of a building and extending vertically above the highest portion of the roof.

2.03.410 **SIGN, ROOF (INTEGRAL)** shall mean any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.



Subdivision Sign

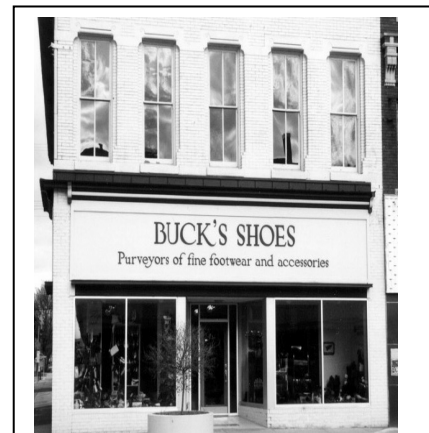
2.03.411 **SIGN, SETBACK** shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.

2.03.412 **SIGN, SUBDIVISION** shall mean a sign erected on a subdivision which identifies the platted subdivision where the sign is located.

2.03.413 **SIGN, SURFACE** shall mean the entire area of a sign.

2.03.414 **SIGN, SUSPENDED** shall mean a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

2.03.415 **SIGN, TEMPORARY** shall mean a sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.



Wall Sign

2.03.416 **SIGN, VIDEO** shall mean any on-premises or off-premises sign that conveys either a commercial or non-commercial message, including a business or organization name, through means of a television or other video screen.

2.03.417 **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.

2.03.418 **SIGN, WINDOW** shall mean any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

- 2.03.419 **SIGN BASE** shall mean any decorative, functional element extending upward from grade to the start of the sign.
- 2.03.420 **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.
- 2.03.421 **SITE BREAK** shall mean a structural or landscape device to interrupt long vistas and create visual interest in a site development.
- 2.03.422 **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.
- 2.03.423 **SITE, SEPTIC** shall mean the area bounded by the dimensions required for the proper location of the septic tank system.
- 2.03.424 **SKATE, IN-LINE** shall mean a boot-type device, which is placed on an individual's feet. In-line skates contain wheels on the bottom of the boot, which are attached in linear fashion.
- 2.03.425 **SKATE PARK** shall mean a recreational facility containing skateboard ramps and other obstacle courses and devices for use with skateboards and in-line skates.
- 2.03.426 **SKATEBOARD** shall mean a foot board mounted upon four or more wheels and is usually propelled by the user who sometimes stands, sits, kneels, or lies upon the device while it is in motion.
- 2.03.427 **SKATEBOARD PIPE** shall mean a outdoor structure which is shaped into a half circle or oval, that are designed and principally intended to permit persons on skateboards to move continuously from one side to the other.
- 2.03.428 **SKATEBOARD RAMP** shall mean a outdoor structure with an upward inclined surface, essentially one of the sides of a pipe, which are designed and principally intended to permit persons on skateboards to move from horizontal to vertical and back to horizontal.
- 2.03.429 **SLUDGE** shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.
- 2.03.430 **SOLID WASTE** shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.
- 2.03.431 **SPECIFIED ANATOMICAL AREAS** shall mean anatomical areas consisting of less than completely and opaquely covered human genitals, buttock, or female breast(s) below a point immediately above the top of the areola.
- 2.03.432 **SPECIFIED SEXUAL ACTIVITIES** shall mean sexual activities prohibited by the Revised Nebraska State Statutes.
- 2.03.433 **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.
- 2.03.434 **STANDARD SYSTEM** shall mean a sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.
- 2.03.435 **STATE** shall mean the State of Nebraska.
- 2.03.436 **STORAGE** shall mean the keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than 30 days.
- 2.03.437 **STORM DRAIN** shall mean a conduit that carries natural storm and surface water drainage but not sewage and industrial wastes, other than unpolluted cooling water.



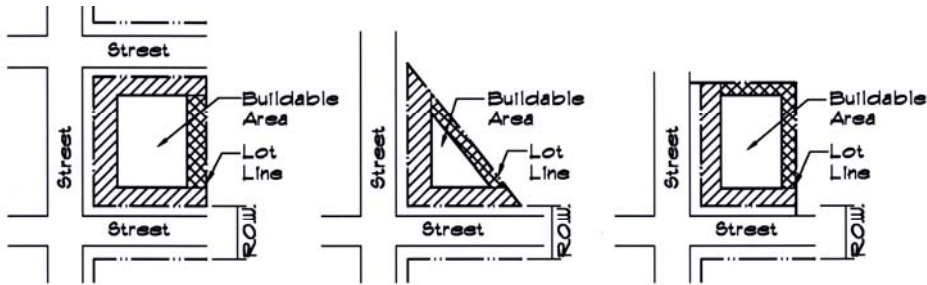
- 2.03.438 **STORMWATER DETENTION** shall mean any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof. Said detention shall be designed by a licensed professional engineer and approved by the City
- 2.03.439 **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.
- 2.03.440 **STORMWATER RETENTION AREA** shall mean an area designed by a licensed professional engineer and approved by the City to retain water to control the flow of stormwater.
- 2.03.441 **STORMWATER RUNOFF** shall mean surplus surface water generated by rainfall that does not seep into the earth but flows over land to flowing or stagnant bodies of water.
- 2.03.442 **STORY** shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.
- 2.03.443 **STORY, ONE-HALF** shall mean the same as "Half-Story".
- 2.03.444 **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.
- 2.03.445 **STREET, ARTERIAL** shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a city, village, or county with controlled access to abutting property.
- 2.03.446 **STREET, COLLECTOR** shall mean a street or high way, which is intended to carry traffic from minor Street to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.
- 2.03.447 **STREET, CURVILINEAR** shall mean local streets that deviate from straight alignment and change direction without sharp corners or bends.
- 2.03.448 **STREET, LINE** is the dividing line between a lot, tract, or parcel of land and a contiguous street.
- 2.03.449 **STREET, LOCAL** shall mean a street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.
- 2.03.450 **STREET, LOOPED** shall mean a continuous local street without intersecting streets and having its two outlets connected to the same street.
- 2.03.451 **STREETS, MAJOR** shall mean a street or highway used primarily for fast or high volume traffic, including expressways, freeways, boulevards, and arterial streets.
- 2.03.452 **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.
- 2.03.453 **STREET, SIDE** shall mean that street bounding a corner or reversed corner lot and which extends in the same general direction as the line determining the depth of the lot.
- 2.03.454 **STREET CENTERLINE** shall mean the centerline of a street right-of-way as established by official surveys.
- 2.03.455 **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.
- 2.03.456 **STREET FRONTAGE ACCESS** 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.

- 2.03.457 **STREET HARDWARE** shall mean man-made objects other than buildings that are part of the streetscape. Examples are: lamp posts, utility poles, traffic signs, benches, litter containers, planting containers, letter boxes, fire hydrants.
- 2.03.458 **STREET LINE** shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.
- 2.03.459 **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.
- 2.03.460 **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 attached 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.
- 2.03.461 **STRUCTURE, ADVERTISING** shall mean the same as "Advertising Structure".
- 2.03.462 **STRUCTURE, TEMPORARY** shall mean a structure without any foundation or footing and removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.
- 2.03.463 **SUBDIVISION** shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or other instrument.
- 2.03.464 **SUPERMARKET** see "Food Sales"
- 2.03.465 **SURFACE WATERS** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.
- 2.03.466 **TANNING STUDIO** shall mean any business that uses artificial lighting systems to produce a tan on an individual's body. These facilities may be either a stand-alone business or as an accessory use in spas, gymnasiums, athletic clubs, health clubs, and styling salons. This use is not included with any type of adult establishment.
- 2.03.467 **TATOO PARLOR / BODY PIERCING STUDIO** shall mean an establishment whose principal business activity is the practice of tattooing and/or piercing the body of paying customers.
- 2.03.468 **TAVERN** See "Bars".
- 2.03.469 **TEMPORARY USE** shall mean a use intended for limited duration to be located in a zoning district not permitting such use.
- 2.03.470 **THEATER** shall mean a building or structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and no audience participation or meal service.
- 2.03.471 **TOTAL FLOOR AREA** is the area of all floors including finished attics, basements, and other areas where floor to ceiling height is not less than six feet.
- 2.03.472 **TOWER** shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. Also see "Antenna".
- 2.03.473 **TOWNHOUSE** shall mean a one-family dwelling unit, with a private entrance in a group of three or more units, which part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.
- 2.03.474 **TRACT** is any parcel, lot area, or piece of property in or within one mile of the corporate limits of Creighton, Nebraska.

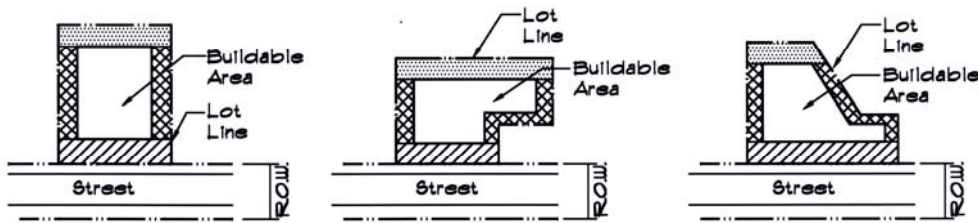
- 2.03.475 **TRAILER, AUTOMOBILE** shall mean a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.
- 2.03.476 **TRUCK REPAIR** shall mean the repair, including major mechanical 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 ton and buses but excluding pickups and other vehicles designed for the transport of under eight passengers.
- 2.03.477 **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.
- 2.03.478 **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.
- 2.03.479 **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.
- 2.03.480 **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.
- 2.03.481 **USE, PERMITTED** shall mean any land use allowed without condition within a zoning district.
- 2.03.482 **USE, PRINCIPAL** shall mean the main use of land or structure, as distinguished from an accessory use. Also see "Building, Principal".
- 2.03.483 **USE, PROHIBITED** shall mean any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.
- 2.03.484 **USED MATERIALS YARD** shall mean any lot or a portion of any lot used for the storage of used materials. This shall not include "Salvage Yards" or "Automobile Wrecking Yards".
- 2.03.485 **UTILITARIAN STRUCTURE** shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.
- 2.03.486 **UTILITY EASEMENT** shall mean the same as "Easement".
- 2.03.487 **UTILITY HARDWARE** shall mean devices such as poles, crossarms, transformers and vaults, gas pressure regulating assemblies, hydrants, and buffalo boxes that are used for water, gas, oil, sewer, and electrical services to a building or a project.
- 2.03.488 **UTILITIES, OVERHEAD OR UNDERGROUND "LOCAL DISTRIBUTION" SYSTEM OF** shall mean the local service distribution circuit or lines and related appurtenances served from a substation, town border station, reservoir, or terminal facility which is served from a main supply line, main transmission line, or main feeder line as may be applicable to electric, communications, gas, fuel, petroleum, fertilizer, or other chemical utilities. Local electric distribution systems shall be limited to include all lines and appurtenances carrying a primary voltage of less than 161 KV from an electric transformer substation to the consumer. The local telephone distribution system shall be limited to include the local exchange lines, the local toll lines, and the local communications equipment facilities structure.
- 2.03.489 **UTILITIES, OVERHEAD OR UNDERGROUND "TRANSMISSION LINE, SUPPLY LINE, WHOLESALE CARRIER OR TRUNK LINE, MAIN FEEDER LINE"**, or other applicable designation shall mean the main supply or feeder line serving a local distribution system of utilities, and shall include but is not limited to pumping stations, substations, regulating stations, generator facilities, reservoirs, tank farms, processing facilities, terminal facilities, towers, and relay stations, and treatment plants.
- 2.03.490 **UTILITY SERVICE** shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil, wastewater and communications into a building or development.
- 2.03.491 **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.

- 2.03.492 **VEGETATION** shall mean all plant life; however, for purposes of this Zoning Ordinance it shall be restricted to mean trees, shrubs, and vines.
- 2.03.493 **VEHICLE** shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks.
- 2.03.494 **VEHICLE, MOTOR** See “Motor Vehicle”.
- 2.03.495 **WAREHOUSE** shall mean a building used primarily for the storage of goods and materials.
- 2.03.496 **WAREHOUSE AND DISTRIBUTION** shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.
- 2.03.497 **WASTE HANDLING SYSTEM** shall mean any and all systems, public or private, or combination of said structures intended to treat human or livestock excrement and shall include the following types of systems
1. **Holding pond** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.
  2. **Lagoon** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for treatment of liquid livestock waste by anaerobic, aerobic or facultative digestion. Such impoundment predominantly receives waste from a confined livestock operation.
  3. **Liquid manure storage pits** shall mean earthen or lined pits located wholly or partially beneath a semi or totally housed livestock operation or at some removed location used to collect waste production.
  4. **Sediment** shall mean a pond constructed for the sole purpose of collecting and containing sediment.
- 2.03.498 **WASTEWATER LAGOON** See “Lagoons”.
- 2.03.499 **WATERS OF THE STATE** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.
- 2.03.500 **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.
- 2.03.501 **WHOLESALE ESTABLISHMENT** shall mean an establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.
- 2.03.502 **WHOLESALE TRADE** shall mean a use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or 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. In addition to selling, 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.
- 2.03.503 **YARD** shall mean any 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.
- 2.03.504 **YARD, FRONT** shall mean a space between the front yard setback line and the front lot line or street setback line, and extending the full width of the lot. The front yard shall always be on the narrow side of the lot.

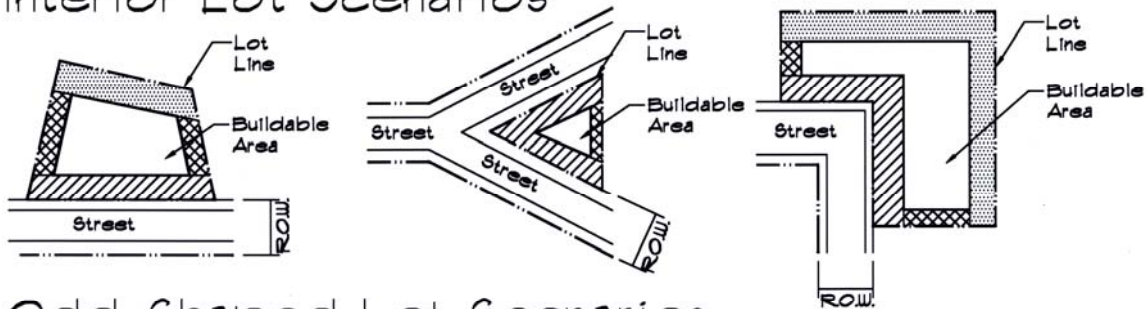
- 2.03.505 **YARD, REAR** shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.
- 2.03.506 **YARD, SIDE** shall mean a space extending from the front yard or from the front lot line where no front yard is required by this Ordinance, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.
- 2.03.507 **ZONE LOT** shall mean a parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by the zoning regulations.
- 2.03.508 **ZONING ADMINISTRATIVE OFFICER** shall mean the person or persons authorized and empowered by the City to administer and enforce the requirements of this Ordinance.
- 2.03.509 **ZONING DISTRICT** shall mean the same as "District".
- 2.03.510 **ZONING DISTRICT, CHANGE OF** shall mean the legislative act of removing one or more parcels of land from one zoning district and placing them in another zoning district on the zone map of the City.



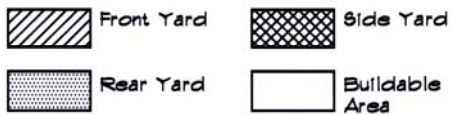
## Corner Lot Scenarios



## Interior Lot Scenarios



## Odd-Shaped Lot Scenarios



Example of possible Lot Configurations  
and Yard Requirements

## **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 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. \_\_\_\_\_ of the City of Creighton, 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 July 9, 1998 (Ordinance No. \_\_\_\_\_) of the City of Creighton, 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 time ten days prior to such hearing.

### **Section 4.03 Jurisdiction**

The provisions of this Ordinance shall apply within the corporate limits of the City of Creighton, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of one mile, as established on the Official Zoning Map, as may be amended from time to time.

### **Section 4.04 Provisions of Ordinance Declared to be 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 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 a lot or lot of record and in no case shall there be more than one principal building on a lot unless otherwise provided.

4.06.02 No building or use of land for other than agricultural purposes shall be established on a lot that does not abut a public street.

4.06.03 More than one principal building of a single permitted use or conditional use may be located upon a lot or tract in the following instances provided that appropriate setbacks, height, and lot regulations are met on such lot or tract or upon division of such lot or tract:

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

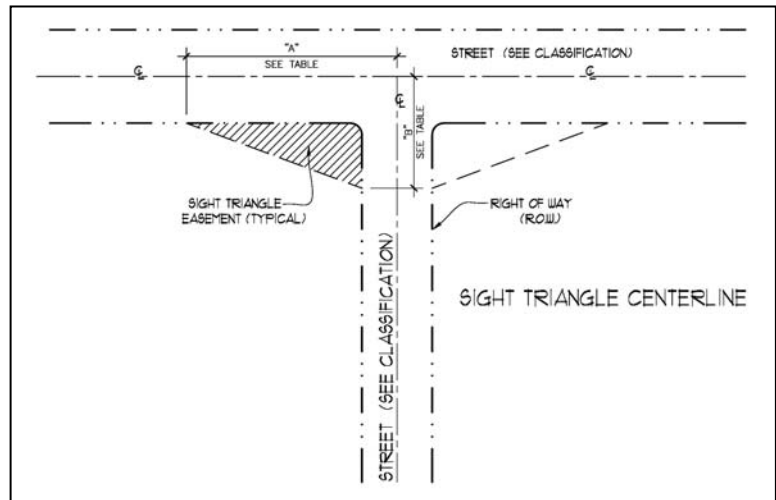


#### Section 4.07 Reductions in Lot Area Prohibited

No lot, even though it may consist of one 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 to Vision at Street Intersections Prohibited

In all districts, on a corner lot, within the area formed by the center line of streets at a distance of 90 feet from their intersections, there shall be no obstruction to vision between a height of three and one-half feet and a height of 10 feet above the average grade of each street at the center line thereof. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.



#### 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 (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 4.09.03 On corner lots, the yard(s) on that side of the lot abutting the side street(s) shall not be less than the front yard required for the district in which the lot is located. On through lots, such yards abutting street/road right-of-way shall be deemed front yards, unless otherwise provided for.
- 4.09.04 Accessory buildings on the side(s) of the lot abutting the side street(s) shall not be closer to the lot line abutting on that side street(s) than the distance specified for front yards of lots fronting on such side street.
- 4.09.05 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 30 percent, of the frontage of principal structures, 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.
- 4.09.06 The required side yard shall be maintained on each side of a dwelling, but may be reduced to 10 percent of the lot width on lots of less than 60 feet in width, provided, however, no side yard shall be less than five feet.
- 4.09.07 The rear yard setback shall be the lesser of the minimum amount noted or 20% of the total lot depth.
- 4.09.08 Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and shall contain landscaping and planting suitable to provide effective screening.
- 4.09.09 Any side or rear yard in an industrial or commercial district which is adjacent to any existing residential use or district shall be no less than 40 feet and shall contain landscaping, planting, or fencing suitable to provide effective screening. Said screening shall be at least six feet but not more than eight feet high, unless the adjacent residential district and industrial or commercial district are separated by a street right-of-way. The owner or owners of the property in the Commercial and/or Industrial District shall maintain said screening in good condition.

- 4.09.10 No part of a yard or other open space required in connection with any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space requirements for another building or structure.

**Section 4.10 Through Lots**

4.10.01 Through lots shall follow the following criteria:

1. Where a through lot abuts a major thoroughfare and where access is made from the another frontage street and access along said thoroughfare is restricted, the designated rear yard setback for fences and screening devices shall be zero feet. The rear yard setback for accessory buildings shall follow the prescribed setback within the zoning district.
2. Where a through lot is part of a triple frontage lot and abuts a major thoroughfare, the rear yard shall meet the standards of 4.10.01 (1), while the other two frontages shall be treated as a corner lot with two front yard setbacks.
3. Where a through lot occurs, other than along a major thoroughfare, the following shall apply:
  - a. Where all principal structures in the development face the same frontage, then the rear yard setback for fences and screening shall be zero feet and all accessory buildings shall meet the prescribed setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical corner lot.
  - b. Where principal structures face different directions along both frontages, the rear yard setback for fences and screening shall be the same as any prescribed rear yard setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical corner lot. All accessory buildings in this condition, shall comply with the minimum rear yard setbacks rather than the reduced setback allowed for accessory buildings.

**Section 4.11 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 their designated agent that such changes will not be a detriment to the neighboring lands.

**Section 4.12 Permitted Obstructions in Required Yards**

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

4.12.01 *All Yards:*

1. Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet 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;
2. An open, uncovered porch or paved terrace, not over six inches in height, projecting up to 10 feet, provided such projection does not extend to any lot line;
3. Chimneys projecting 24 inches or less into the yard;
4. Recreational equipment (swing sets, slides, sand volleyball courts and nets, etc);
5. Clothes lines;
6. Approved freestanding signs;
7. Arbors and trellises;
8. Flag poles;
9. The projection of window unit air conditioners, not more than 18 inches into the required yard; and
10. Fences or walls subject to applicable height restrictions are permitted in all yards.

4.12.02 *Front Yards:* Bay windows projecting three feet or less into the yard are permitted. Open or screened porches, platforms, or terraces not over three feet above the average level of the adjoining ground, including a permanently roofed-over terrace or porch; awnings and canopies provided they do not extend or project into the yard more that six feet and has no more that 48 square feet of area.

4.12.03 *Rear and Side Yards:* Open off-street parking spaces or outside elements of central air conditioning systems.

4.12.04 *Double Frontage Lots:* The required front yard shall be provided on each street.

- 4.12.05 *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 building occupying one lot.

**Section 4.13      Accessory Building and Uses**

- 4.13.01 No accessory building or structure shall be constructed upon a lot for more than six months prior to beginning construction of the principal building. No accessory building shall be used for more than six months unless the main building on the lot is also being used or unless the main building is under construction and under an active building permit. However, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
- 4.13.02 No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure when permitted.
- 4.13.03 No accessory building or structure shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.
- 4.13.04 Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than 10 feet.
- 4.13.05 Accessory buildings and structures may be built within a required rear yard when located at least five feet from the rear lot line and when occupying not more than 30 percent of the area of such rear yard. Further, where vehicular access to an accessory building or structure is provided from an alley, such building or structure shall be no closer than 15 feet to the alley.
- 4.13.06 Detached garages and outbuildings in Residential Districts for storage uses and other structures customary and appurtenant to the permitted uses and detached accessory garages shall:
1. Be constructed of materials that are in good repair,
  2. The sidewalls of said building shall not exceed 10 feet in height,
  3. Garages shall have an overhang of at least six inches,
  4. Garages shall have a maximum width of 36 feet,
  5. Garages shall be constructed and finished in materials customary to residential construction.
- 4.13.07 Regulation of accessory uses shall be as follows:
1. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
  2. Service station pumps and pump islands may occupy the required yards, provided, however, that they are not less than 15 feet from street lines.
  3. Storage of any boat, camper, trailer, recreational vehicle or other vehicle shall not be permitted in any required front or side yard.

**Section 4.14      Permitted Modifications of Height Regulations**

- 4.14.01 The height limitations of this Ordinance shall not apply to the following, provided that the appropriate yard setbacks are increased by one foot for every two feet in excess of the maximum height requirement for the given zoning district
- |                                 |  |
|---------------------------------|--|
| 1. Belfries                     | 13. Necessary mechanical devices                             |
| 2. Church steeples              | 14. Fire towers  |
| 3. Public monuments             | 15. Water towers and Standpipes                              |
| 4. Flag Poles                   | 16. Air-pollution prevention devices                         |
| 5. Chimneys                     | 17. Recreational equipment                                   |
| 6. Conveyors for grain storage  | 18. Private radio and television antennae under 75 feet      |
| 7. Ornamental towers and spires | 19. Radio and television towers less than 125 feet in height |
| 8. Church spires                | 20. Stage towers or scenery lots                             |
| 9. Silos                        | 21. Tanks  |
| 10. Cooling towers              |  |
| 11. Smoke stacks                |  |
| 12. Elevator bulkheads          |  |

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

**Section 4.15      Occupancy of Basements and Cellars**

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been completed.

**Section 4.16      Nonconforming, 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 4.17      Nonconforming Lots of Record**

In any district where buildings and structures 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; and 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 4.18      Nonconforming Structures**

- 4.18.01 *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 bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
- 4.18.02 *Enlargement, Repair, Alterations:* Any such structure described in Section 4.18.01 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, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, unless otherwise permitted by conditional use permit unless otherwise approved or as specified in the Residential District.
- 4.18.03 *Damage or Destruction:* In the event that any structure described in Section 4.18.01 is damaged or destroyed, by any means, to the extent of more than 50 percent 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 4.18, shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 50 percent of its structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within six months after the date of such partial destruction and is diligently pursued to completion.
- 4.18.04 *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 4.19      Nonconforming Uses**

- 4.19.01 *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 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.

4.19.02 *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 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 any 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 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.

#### **Section 4.20 Repairs and Maintenance**

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

4.20.02 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 4.21 Uses under Conditional Use Permit not Nonconforming Uses**

Any use for which a Conditional Use 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 4.22 Recreational Vehicles, Trailers, or Equipment**

All vehicles, trailers, or equipment expressly designated or used for recreational or seasonal use shall not be used for dwelling purposes on any lot except as may be authorized elsewhere within this Ordinance. Such vehicles, trailers, or similar equipment shall not be parked or maintained in the required front or side yard.

**Section 4.23      Survey of Property Lines, Required**

A survey of lot lines shall be required before any building permit is issued for any new residence or principle industrial and/or business structure. This shall not apply to accessory use structures, except on a multi-building industrial site.

**Section 4.24      Fees**

Fees shall be set by the City by separate Resolution.

**Section 4.25      Prohibited Uses**

All uses not specifically listed within a particular zoning district are deemed to be prohibited until some point where this Ordinance is amended to include a given use.

**ARTICLE 5: ZONING DISTRICTS**

5.01	Districts Uses
5.02	Districts Boundaries
5.03	District Boundaries Interpretation
5.04	Districts Classification of Districts upon Annexation and Conformance with Land Use Plan
5.05	District (TA): Transitional Agricultural
5.06	District (R-1): Low Density Residential
5.07	District (R-2): Medium Density Residential
5.08	District (R-3): High Density Residential
5.09	District (RT): Residential Transition
5.10	District (C-1): General Commercial
5.11	District (C-2): Highway Commercial
5.12	District (C-3): Downtown Commercial
5.13	District (I-1): Industrial
5.14	District (FF/FW): Flood Plain Overlay

**Section 5.01 Districts; Use**

For the purpose of this Chapter, the Municipality is hereby divided into 10 districts, designated as follows:

(TA)	Transitional Agricultural
(R-1)	Low Density Residential
(R-2)	Medium Density Residential
(R-3)	High Density Residential
(RT)	Residential Transition
(C-1)	General Commercial
(C-2)	Highway Commercial
(C-3)	Downtown Commercial
(I-1)	Industrial
(FF/FW)	Floodway Fringe and Floodway 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 Creighton, 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 50 feet beyond the district line into the remaining portion of the lot.

**Section 5.04 District Classification upon Annexation**

Areas annexed into the corporate limits of Creighton, as well as any new area brought into the one mile extraterritorial jurisdiction, shall be zoned to conform to the Creighton Future Land Use Plan. Rezoning shall be required to follow proper procedures including Public Hearings as per Neb. Rev. Stat. §19-904.



**Section 5.05 TA Transitional Agriculture District**

5.05.01 *Intent:* The Transitional 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:*

The following principal uses are permitted in the TA District.

1. Farming, pasturing, commercial production and husbandry of livestock, poultry, fish and small animals, truck gardening, and orchards, including the sale of products raised on the premises, provided that no livestock feedlot or yard to a maximum of 100 animal units provided the producer can meet a density of one acre for the first A.U. and one-half acre for each additional A.U.
2. Single-family dwellings
3. Public parks and recreation areas, playgrounds, and conservation areas including natural wildlife habitats and preserves
4. Railroads, not including switching, terminal facilities or freight yards
5. Public overhead and underground local distribution utilities
6. Churches, temples, seminaries, and convents including residences for teachers and pastors
7. Public services such as police, fire, and emergency facilities
8. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums, or service yards
9. Nursing homes
10. Roadside stands offering the sale of agriculture products produced on the premises
11. Irrigation and flood control facilities

5.05.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the TA District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Commercial auction yards and barns
2. Retail sale and distribution of agricultural products that have been produced on the premises.
3. Feed mills
4. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), fishing lakes, gun clubs, and swimming pools
5. Commercial greenhouses
6. Airports
7. Public and private stables and riding clubs, provided:
  - a. No structure or building used to house horses or other animals is located closer than 300 feet to any residential use or district
  - b. Minimum lot area of four acres
8. Private or commercial kennels and facilities for the raising, breeding and boarding of dogs and other small animals, provided:
  - a. No structure or building is located closer than 300 feet to any residential use or district
  - b. Minimum lot area of four acres
9. Agricultural storage facilities for equipment and grain
10. Educational institutions, including public and private primary schools, secondary schools including universities, colleges, vocational schools, and business schools
11. Extraction of sand, gravel or other raw material
12. Hospitals, clinics, institutions, including educational, religious and philanthropic institutions, and convalescent homes, provide the following and/or other conditions and standards are met:
  - a. Building shall not occupy more than 40% of the total lot area,
  - b. Building setbacks from all yards shall not be less than one foot per foot of building height
13. Radio, television, and wireless communication towers and transmitters, pursuant to Section 9.02
14. Cemeteries provided all structures are located at least 100 feet from all property lines
15. Water supply and storage facilities, wastewater treatment, sewage disposal, and solid waste disposal facilities
16. Veterinarians' offices and hospitals, provided that no structure or building used to house horses or other animals is located closer than 300 feet to any residential use or district
17. Livestock feeding operations, and the raising and care of animals for 4-H, FFA or other rural/school organizations provided no such facility shall have more than 300 animal units

provided the producer can meet a density of one acre for the first A.U. and one-half acre for each additional A.U.

18. Commercial wind energy systems
19. Public campgrounds
20. Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals
21. Bed and breakfast establishments
22. Seasonal dwelling units
23. Retail motor vehicle sales and service
24. Mobile homes and single-family dwelling units on a farm or ranch provided they are used for relatives or farm workers associated with the farm operation

#### 5.05.04 *Temporary Uses:*

The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

5. Temporary greenhouses
6. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work
7. Temporary structure for festivals or commercial events

#### 5.05.05 *Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted and conditional uses
2. Fences pursuant to Section 9.03
3. Home occupation, pursuant to Section 9.01
4. Parking pursuant to Article 7
5. Private swimming pool, tennis court and other similar facilities in conjunction with a residence
6. Signs pursuant to Article 8
7. Decks, gazebos, elevated patios either attached or detached
8. Family Child Care Home I
9. Small wind energy systems pursuant to Section 9.05

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

Use	Lot Area (acres)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Coverage (%)
Single-family detached	5 (1)	150	70	25	65	35	10
Other permitted uses	5(1)	150	70	25	65	35	10
Conditional uses	5	150	70	25	65	35	10
Accessory uses	-	-	100	25	65	35	5 (2)

(1) Three acre lot sizes are permitted in a subdivision of three lots or more

(2) Total not to exceed 1,500 square feet for non-agricultural uses where total lot coverage of all structures does not exceed 10%.

#### 5.05.07 *Other Applicable Provisions:*

1. The following uses shall be located a minimum of 3,960 feet from any adjacent residential, commercial, or public use, as measured from the nearest point on the lot line
  - a. Commercial auction yards or barns
  - b. Commercial production and husbandry of poultry, fish, and small animals
  - c. Commercial feedlots
  - d. Mining and extraction of natural resources
  - e. Feed mills
  - f. Auto wrecking yards, junk yards, salvage yards, and scrap processing yards
  - g. Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals

**Section 5.06 R-1 Low Density Residential District**

5.06.01 *Intent:* The Low Density Residential District is intended to permit single-family and two family residential developments in areas with adequate public facilities and supporting uses.

5.06.02 *Permitted Uses:*

The following principal uses are permitted in the R-1 District

1. Single family detached dwellings
2. Single-family attached dwellings (maximum of two dwelling units per structure)
3. Townhouses
4. Two family dwelling units
5. Churches, temples, seminaries and convents, including residences for teachers and pastors
6. Private clubs or organizations not operated for profit
7. Public and private schools, colleges, and universities
8. Public Uses, including but not limited to recreational uses, fire stations, community centers, auditoriums, libraries or museums
9. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities

5.06.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-1 District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Hospitals, clinics and institutions, including educational, religious and philanthropic institutions and convalescent homes
2. Private country clubs and golf courses, not including commercial miniature golf, located on not less than ten 10 acres
3. Bed and Breakfast, provided:
  - a. The facility complies with all parking and sign regulations
  - b. The facility complies with all life safety codes as established by the State of Nebraska
4. Three and four unit family dwellings, provided:
  - a. Location shall be adjacent to arterial with driveway from side street
  - b. Adjacent to an R-2 or Commercial District
- <sup>3</sup> Townhouses (three or more dwelling units per structure), provided:
  - a. Location shall be adjacent to arterial with driveway from side street
  - b. Adjacent to an R-2 or Commercial District
- <sup>4</sup> Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses
7. Family Child Care Home II

5.06.04 *Temporary Uses:*

The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work
2. Temporary structure for festivals or commercial events
3. Temporary signs as provided in Sections 8.04
4. Firework stands provided the criteria are met as established by the City

5.06.05 *Accessory Uses:*

1. Buildings and uses customarily incidental to the principal uses
2. Home occupation, pursuant to Section 9.01
3. Swimming pool, tennis court, and other recreational facilities in conjunction with a residence
4. Signs pursuant to Article 8
5. Parking for permitted uses pursuant to Article 7
6. Fences pursuant to Section 9.03
7. Decks, gazeboes, elevated patios either attached or detached
8. Family child care home I

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

Use	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Single-family detached residential	20,000	75	25(5)	10	25 (2)	35	40%
Single family attached residential (per unit)	6,600(3)	18 (4)	25 (5)	10 (4)	35 (2)	35	40%
Two family residential	5,500	75	25 (5)	6	25 (2)	35	40%
Other permitted uses	20,000	75	25 (5)	10	25 (2)	35	20%
Conditional uses	10,000	75	25	10	35 (2)	35	40%
Accessory uses	-	-	25	10	5	17	10% (1)

- (1) All accessory structures shall be located in the side or rear yard, and shall not exceed 1,100 square feet for residential uses, or 15% of lot size; provided that the maximum single lot coverage from any type of structure shall not exceed 40%.
- (2) See Section 4.09.07 of this Ordinance.
- (3) The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line.
- (4) The minimum lot width only applies to the interior lots of a townhouse/single-family attached development. Exterior lots shall be a minimum 35 feet.
- (5) When a residential building permit is applied for fronting on a street where all the existing houses fronting on that same street in the same city block (or within 200 feet in no street intervenes) have established a uniform front yard set-back greater than 25 feet, the applicant may no build closer to the front lot line than that established line of the existing houses.

5.06.07 *Miscellaneous Provisions:*

1. Supplementary regulations shall be complied with as defined herein
2. Only one principal building shall be permitted on one zoning lot except as otherwise provided

**Section 5.07 R-2 Medium Density Residential District**

5.07.01 *Intent:* The purpose of the Medium Density Residential District is to permit single-family residences at a high density with an increase of density to include multi-family residential units in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

5.07.02 *Permitted Uses:*

The following principal uses are permitted in the R-2 District.

1. Churches, temples, seminaries and convents, including residences for teachers and pastors
2. Public and private schools, colleges, and universities
3. Public uses, including but not limited to recreational uses, fire stations, community centers, auditoriums, libraries or museums
4. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities
5. Single family dwellings
6. Single family attached dwellings/townhouses
7. Two family dwellings
8. Lodging and boarding houses, including bed and breakfast facility
9. Hospitals, sanitariums, rest homes, nursing homes, convalescent homes, or other similar institutions, philanthropic institutions or funeral homes

5.07.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-2 District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Private and public country clubs and golf courses, not including commercial miniature golf, located on not less than 10 acres
2. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses
3. Multiple-family dwellings
4. Family Child Care Home II
5. Civic, social, and fraternal organizations

5.07.04 *Temporary Uses:* The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work
2. Temporary structure for festivals or commercial events
3. Temporary signs as provided in Sections 8.04
4. Firework stands provided the criteria are met as established by the City

5.07.05 *Accessory Uses:*

1. Buildings and uses customarily incidental to the principal use
2. Home occupation, pursuant to Section 9.01
3. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence
4. Signs pursuant to Article 7
5. Parking pursuant to Article 8
6. Fences pursuant to Section 9.03
7. Decks, gazeboes, elevated patios either attached or detached
8. Family Child Care Home I

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

Use	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Single Family Detached (existing)	7,000	50	25 (6)	10	25 (3)	35	35%
Single Family Detached (future)	7,500	50	25 (6)	10	25 (3)	35	35%
Single Family Attached/Townhouse (per unit)	3,750	18 (5)	25 (6)	10 (1)	25 (3)	35	35%
Two Family	8,000	75	25 (6)	10	25 (3)	35	35%
Multiple Family	4,000 per unit	75	25 (6)	(2)	25 (3)	35	35%
Other Permitted Uses	10,000	80	25(6)	10	25 (3)	35	25%
Conditional Uses	10,000	100	25 (6)	10	25 (3)	35	10%
Accessory Uses	-	-	25	10	5	17	10% (4)

- (1) The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line.
- (2) For multi-family units shall be 10 feet if it is a three-story structure, and two feet additional side yard on each side shall be provided for each story in excess of three stories
- (3) See Section 4.09.07 of this Ordinance
- (4) All accessory structures shall be located in the side or rear yard, and shall not exceed 1,100 square feet for residential uses, or 15% of lot size; provided that the maximum single lot coverage from any type of structure shall not exceed 40%.
- (5) The minimum lot width only applies to the interior lots of a townhouse/single-family attached development. Exterior lots shall be a minimum 35 feet
- (6) When a residential building permit is applied for fronting on a street where all the existing houses fronting on that same street in the same city block (or within 200 feet in no street intervenes) have established a uniform front yard set-back greater than 25 feet, the applicant may not build closer to the front lot line than that established line of the existing houses.

5.07.07 *Miscellaneous Provisions:*

1. Supplementary regulations shall be complied with as defined herein
2. Only one principal building shall be permitted on one zoning lot except as otherwise provided

**Section 5.08 R-3 High Density Residential District**

5.08.01 *Intent:* The High Density Residential District (R-3) is intended to permit an increased density of residential development to include two-family units, as well as other compatible uses.

5.08.02 *Permitted Uses:*

The following principal uses are permitted in the R-3 District.

1. Single family dwellings
2. Single-family attached/townhouses
3. Two-family dwellings
4. Churches, temples, seminaries, and convents including residences for teachers and pastors.
5. Publicly owned and operated parks, playgrounds, fire stations, community centers, and libraries
6. Public facilities
7. Apartments buildings
8. Lodging and boarding houses
9. Condominiums

5.08.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-3 District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Public and private schools
2. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
3. Child Care Center and Child Care Home.
4. Bed and Breakfast establishments.
5. Funeral homes and mortuaries.
6. Professional offices within an existing residences or a converted residence (no new construction shall be allowed)
7. Mortuaries, funeral homes, and funeral chapels
8. Hospitals, clinics, institutions, including educational, religious and philanthropic institutions, and convalescent homes, provide the following and/or other conditions and standards are met:
  - a. Building shall not occupy more than 40% of the total lot area,
  - b. Building setbacks from all yards shall not be less than one foot per foot of building height.
8. Publicly owned and operated parks, playgrounds, fire stations, community centers, and libraries.
9. Private country clubs, and golf courses, but not including commercial miniature golf, golf driving ranges, motorized cart tracts, and similar uses not on less than 10 acres.
10. Commercial recreational areas and facilities such as swimming pools.
11. Cemeteries
12. Mobile home parks, provided they meet the following conditions:
  - a. A mobile home park shall be developed according to a site plan approved by the Zoning Administrator and City Engineer
  - b. There shall be a minimum livable floor area of 500 square feet in each mobile home, when mobile home is owned and leased by the mobile home park owner
  - c. Height of Buildings
    1. Maximum height for principal uses: 35 feet
    2. Maximum height for accessory uses: 17 feet
  - d. Each lot shall have access to a hard surfaced drive not less than 22 feet in width excluding parking
  - e. City water and sewage disposal facilities shall be provided with connections to each lot.
  - f. Tie downs shall meet all manufacturers recommendations
  - g. Service buildings including adequate laundry and drying facilities, and toilet facilities for mobile homes which do not have these facilities within each unit
  - h. Not less than 10% of the total court area shall be designated and used for park, playground and recreational purposes
  - i. Limitations on Lot Coverage shall be no more than 45%
  - j. Storm shelters shall be required and shall meet the following criteria:
    1. Shelter space equivalent to a minimum of two persons per mobile home lot,

2. Designed in conformance with “National Performance Criteria for Tornado Shelters” by the Federal Emergency Management Agency (FEMA) and any other referenced material by FEMA
3. 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
- k. All mobile home pad locations shall be hard surfaced with properly reinforced Poured in Place Concrete
- l. All mobile homes shall have skirting which is in good repair, meets manufacturer standards, and is in conformance with the color scheme of the trailer
- m. All off-street parking shall be hard surfaced
- n. All Mobile homes shall comply with all other City Ordinances
- o. A complete plan of the mobile home court shall be submitted showing:
- p. A development plan and grading plan of the court
  1. The area and dimensions of the tract of land
  2. The number, location, and size of all mobile home spaces
  3. The number, location, and size of all hard surfaced pads shall be shown
  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

#### 5.08.04 Temporary Uses:

The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Temporary greenhouses
2. Fireworks stands provided the criteria are met as established by the City through separate Ordinances
3. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work
4. Temporary structure for festivals or commercial events

#### 5.08.05 Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses
2. Fences pursuant to Section 9.03
3. Home occupation, pursuant to Section 9.01
4. Parking pursuant to Article 7
5. Private swimming pool, tennis court and other similar facilities in conjunction with a residence
6. Signs pursuant to Article 8
7. Decks, gazeboes, elevated patios either attached or detached
8. Family Child Care Home I

#### 5.08.06 Height and Lot Requirements: The height and minimum lot requirements shall be follows:

Use	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Coverage (%)
Single-family, detached	7,000	50	25 (2)	10	25 (4)	35	40
Single-family, attached (2 units only)	3,500 per unit	50 per unit	25 (2)	10 (1)	25 (4)	35	40 per unit
Two-family Dwelling	8,000	75	25 (2)	10	25 (4)	35	40
Condominiums/Townhouses (more than 2 units)	2,500 per unit	18 per unit (3)	25 (2)	8 (1)	35 (4)	35	40
Multi-family Dwelling							
(per dwelling unit)	4,000	100	25 (2)	(1)	25	35	40
Other Permitted Uses and Conditional Uses	10,000	100	25	10	25	35	30
Accessory Uses	-	-	25	10	5	-	10 (5)

- (1) Common wall shall have a zero lot line setback and shall be located on the property line separating both dwellings.
- (2) When a residential building permit is applied for fronting on a street where all the existing houses fronting on that same street in the same city block (or within 200 feet in no street intervenes) have established a uniform front yard set-back greater than 25 feet, the applicant may no build closer to the front lot line than that established line of the existing houses
- (3) The units on each end shall have a minimum lot width of 50 feet.
- (4) See Section 4.09.07
- (5) All accessory structures shall be located in the side or rear yard, and shall not exceed 1,100 square feet for residential uses, or 15% of lot size; provided that the maximum single lot coverage from any type of structure shall not exceed 40%.



**Section 5.09 RT Residential Transition**

**5.09.01 Intent:** The purpose of the Residential Transition district is to provide an area generally along Highway 59 around the Downtown Commercial district where a mixture of uses are allowed; this includes existing residential. The other uses in this area are to include commercial uses, such as professional offices and/or businesses uses. The Residential Transition district would create a connecting link from the Downtown Commercial district to the highway development. The existing, as well as, new structures in this area should continue as residential in character.

**5.09.02 Permitted Uses:**

The following principal uses are permitted in the RT District:

1. Single family detached dwellings
2. Two-family, duplex, dwellings
3. Single family attached dwellings
4. Townhouses, Condominiums, and Multiple Family, provided it adheres to the following:
  - a. Parking shall be provided to the rear of the building
  - b. Entrances shall be articulated through the use of architectural detailing, and shall be separate from other uses within the same structure
5. Publicly owned and operated facilities
6. Public Services

**5.09.03 Conditional Uses:**

The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the RT District as recommended by the Planning Commission and approved by the City Council:

1. Public and private schools
2. Religious institutions
3. Public and private recreation areas such as parks, common areas, and swimming pools
4. Business services including the following: attorneys, banks, insurance, real estate offices, postal stations, credit services, security brokers, dealers and exchange, title abstracting, finance services and investment services; but not including uses defined in adult establishment.
5. Museums, art galleries, and other public or semi-public cultural facilities.
6. Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
  - a. Book store, not including uses defined in adult establishment
  - b. Brew-on premises store
  - c. Dry cleaning and laundry pickup
  - d. Floral shop
  - e. Gift and curio shop
  - f. Jewelry store
  - g. Restaurants, cafes and fast food establishment
  - h. Travel agencies
  - i. Video store, not including uses defined in adult establishment
  - j. Food sales, limited
7. Meeting halls not including adult establishments
8. Community center
9. Congregate housing
10. Medical offices
11. General offices
12. Educational institutions under the supervision and administration of a public agency
13. Bed and breakfast, provided guest rooms shall be within the principal residential building only and not within an accessory building
14. Public utility substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar uses
15. Charitable clubs and organizations
16. Group care home
17. Emergency shelters
18. Adult care center
19. Mortuaries, funeral homes, and funeral chapels
20. Coffee kiosks
21. Health clubs and tanning salon, not including uses defined in adult establishment

22. Health recreation facilities, not including uses defined in adult establishment
23. Child care center

**5.09.04 Permitted Temporary Uses**

Temporary Uses require a permit from the City of Creighton and shall be valid only for a specific amount of time as indicated on said permit.

1. Temporary structures as needed for sidewalk and other outdoor sales events
2. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work
3. Temporary structure for festivals or commercial events

**5.09.05 Permitted Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses
2. Decks, elevated patios either attached or detached
3. Signs as provided for in Article 8
4. Parking as provided for in Article 7
5. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence
6. Fencing as required by Section 9.03
7. Incidental public safety uses such as emergency sirens
8. Home occupations, as per Section 9.01
9. Family Child Care I

**5.09.06 Height and Lot Requirements:**

1. The height and minimum lot requirements shall be follows:

Uses	Lot Area (SF)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Single-family Dwelling <sup>2</sup>	7,000	50	25 (2)	7.5	25	35	35%
Two-family Dwelling <sup>2</sup>	8,000	60	25 (2)	7.5	25	45	40%
Single-family attached <sup>2</sup>	6,000 per unit	45 per unit	25 (2)	7.5	25	45	40%
Multi-family Dwelling	4,000 per unit	75	25 (2)	(3)	25	35	35%
Townhouses/Condominiums	3,500 per unit	50	25 (2)	(3)	25	35	35%
Other Permitted and Conditional Uses	7,000	50	25	10	25	35	25%
Accessory Uses	-	-	25	10	5	17	10% (1)

- (1) All accessory structures shall be located in the side or rear yard, and shall not exceed 1,100 square feet for residential uses, or 15% of lot size; provided that the maximum single lot coverage from any type of structure shall not exceed 40%.
- (2) When a residential building permit is applied for fronting on a street where all the existing houses fronting on that same street in the same city block (or within 200 feet in no street intervenes) have established a uniform front yard set-back greater than 25 feet, the applicant may no build closer to the front lot line than that established line of the existing houses
- (3) For multi-family units the side yard shall be 10 feet if it is a three-story structure, and two feet additional side yard on each side shall be provided for each story in excess of three stories

**5.09.07 Use Limitations**

1. All new structures constructed to house commercial, business and/or service related uses, shall be of a type that assimilates the residential character of the district.
2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any adjacent property and so that no glare is visible to any traffic on any public street.
3. Commercial uses locating within this district shall meet the minimum parking standards.

**Section 5.10 C-1 General Commercial District**

5.10.01 *Intent:* The General Commercial District is intended to provide a compact area of retail and office uses to serve portions of the community that will benefit the retail trade, business, cultural and social activities of the entire community. The edge of such districts shall be designed to provide compatibility with residentially zoned properties.

5.10.02 *Permitted Uses:*

The following shall be permitted outright provided the requirements of this ordinance can be met.

1. Business and professional 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. Dance studio, not including uses defined in Adult Establishment
3. Meeting hall, not including uses defined in Adult Establishment
4. Retail business or service establishment supplying commodities or performing services at a small scale, such as, or in compatibility with and including the following:
  - a. Apparel shop
  - b. Appliance store
  - c. Antique store
  - d. Automobile parts supply store, not including repair or service facilities
  - e. Bakery shop
  - f. Barber and Beauty shop
  - g. Bookstore, not including uses defined in Adult Establishment
  - h. Childcare center
  - i. Clothing and tailoring shops
  - j. Communication services
  - k. Computer store
  - l. Drug stores and prescription shops
  - m. Floral shop and commercial greenhouses
  - n. Furniture store or showroom
  - o. Gift and curio shop
  - p. Grocery store
  - q. Hardware store
  - r. Hobby, craft, toy store
  - s. Indoor amusement and entertainment establishment, including bowling alleys and movie theaters, not including uses defined in Adult Establishment
  - t. Laundry and dry cleaning pick-up and delivery stations
  - u. Liquor store
  - v. Newsstands, not including uses defined in Adult Establishment
  - w. Photography studio
  - x. Picture framing shop
  - y. Restaurants
  - z. Second hand stores
  - aa. Shoe store
  - bb. Tanning salon
  - cc. Variety store, not including uses defined in Adult Establishment
  - dd. Video store, not including uses defined in Adult Establishment
  - ee. Telephone exchange
  - ff. Telephone answering service
5. Publicly owned and operated parks, playgrounds, fire stations, community centers, city offices, recycling operations, and libraries.

5.10.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the C-1 District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Business or trade school
2. Garden supply and retail garden center
3. Tavern and cocktail lounge, not including uses defined in Adult Establishment
4. Temporary greenhouses
5. Totally enclosed, automated and conveyor-style car washes

6. Outdoor entertainment
7. Convenience store with limited fuel sales
8. Residences in conjunction with the principle use when located above the ground floor
9. Churches, temples, seminaries, and convents including residences for teachers and pastors
10. Printing and publishing
11. Retail motor vehicle sales and service
12. Car wash
13. Service station and minor automobile repair services
14. Tire store and minor automobile repair service
15. Public Utility offices, garages, and dispatcher centers
16. Veterinarian clinics

5.10.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work
2. Temporary structure for festivals or commercial events
3. Fireworks stands provided the criteria are met as established by the City through separate Ordinance

5.10.05 *Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses
2. Parking as permitted in Article 7
3. Signs allowed in Article 8
4. Temporary buildings and uses incidental to construction work which will be removed upon completion or abandonment of the construction work

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

The height and minimum lot requirements shall be as follows:

Use	Lot Area (sq. feet)	Lot Width (feet)	Front Yard (feet) (3/5)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	3,500	25	20	(1)	(2)	35 (4)	80%
Conditional Uses	3,500	25	20	(1)	(2)	35 (4)	80%
Accessory Uses	-	-	20	(1)	(2)	35 (4)	40%

- (1) None, except that when adjacent to any residential district, the side yard setback shall be 25 feet.
- (2) None, except that when adjacent to any residential district, the rear yard setback shall be 25 feet, unless there is an alley between the two, in which case the rear yard setback shall be five feet.
- (3) A front yard setback of 25 feet is required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of 50 feet.
- (4) Special provision: Any building over two stories in height permitted in Commercial District shall be so designed to provide for adequate light and air so that any part of such building above the second story shall be no closer than 20 feet perpendicular distance from the vertical extension of any lot boundary.
- (5) Front yard setback by be reduced to less than 20 feet or the same setback as 50% or more of the buildings on the same block.

5.10.07 *Miscellaneous Provisions:*

1. Supplementary regulations shall be complied with as defined herein.
2. When adjacent to residentially zoned land, no parking, driveways, or signs shall be allowed in the required front yard within 15 feet of such district. Furthermore, permanent fenced screening shall be provided in this area in order to minimize impacts on residentially zoned property.
3. 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 C-2 Highway Commercial District

5.11.01 *Intent:* The (C-2) Highway Commercial District is intended for the purpose of servicing highway travelers and providing limited commercial services located along Nebraska Highway 13 and Nebraska Highway 59. Off-street parking is required in order to reduce possible adverse effects on adjacent properties. In most cases, developments will be required to plat and construct service roads in order to limit the amount of access points required along the expressway.

### 5.11.02 *Permitted Uses:*

The following principal uses are permitted in the C-2 District.

1. Agriculture on more than seven acres
2. Business and professional 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
3. Veterinarian or animal clinic, provided any such building, kennel, or exercise runway is located at least 100 feet away from the R-1, R-2, R-3, and RT districts
4. Dance studio, not including uses defined in Adult Establishment.
5. Meeting hall, not including uses defined in Adult Establishment
6. Hospitals, nursing home facilities
7. Civic and cultural activities
8. Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
  - a. Agricultural implement sales and service centers
  - b. Antique store
  - c. Automobile displays, sales, service, and repair
  - d. Automobile parts and supplies store
  - e. Bakery shop
  - f. Bar and tavern
  - g. Barber and beauty shop
  - h. Building materials retail sales
  - i. Commercial greenhouses
  - j. Communication services
  - k. Computer store
  - l. Drug stores and prescription shops
  - m. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment
  - n. Floral shop
  - o. Gift and curio shop
  - p. Golf driving ranges
  - q. Grocery store
  - r. Hardware and buildings materials store
  - s. Indoor amusement and entertainment establishment, including movie theaters, not including uses defined in Adult Establishment.
  - t. Laundry and dry cleaning pick-up and delivery stations
  - u. Liquor store
  - v. Lumber yards, hardware stores, and building material sales yards
  - w. Mortuaries and funeral chapels
  - x. Motels, hotels, and trailer campgrounds
  - y. Outdoor amusement and entertainment establishment, including miniature golf,
  - z. Restaurants, cafes, and fast food establishment
  - aa. Tanning salon
  - bb. Variety store, not including uses defined in Adult Establishment
  - cc. Video store, not including uses defined in Adult Establishment
  - dd. Social club and fraternal organizations, not including uses defined in Adult Establishment
  - ee. Public overhead and underground local distribution utilities
10. When located at least 100 feet away from the R-1, R-2, R-3, and RT district: bowling alley, drive-in restaurant or similar establishment, drive-in theater, and other similar place of entertainment or amusement
11. Publicly owned and operated parks, playgrounds, fire stations, community centers, city offices, recycling operations, and libraries

**5.11.03 Conditional Uses:**

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the C-2 District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Amusement arcades
2. Garden supply and retail garden center
3. Totally enclosed, automated and conveyor-style car washes
4. Convenience store with limited fuel sales provided the following minimum requirements are met:
  - a. The use has a minimum lot area of 10,000 square feet
  - b. All surfaces associated with the sale of gasoline shall be on an all-weather surface
5. Churches, temples, seminaries, and convents including residences for teachers and pastors
6. Retail motor vehicle sales and service
7. Car wash
8. Service station and minor automobile repair services provided the following minimum requirements are met:
  - a. The use has a minimum lot area of 10,000 square feet
  - b. All surfaces associated with the sale of gasoline shall be on an all-weather surface
9. Tire store and minor automobile repair service

**5.11.04 Temporary Uses:**

The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Temporary greenhouses
2. Fireworks stands provided the criteria are met as established by the City through separate Ordinances
3. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work
4. Temporary structure for festivals or commercial events

**5.11.05 Accessory Uses**

1. Buildings and uses customarily incidental to the permitted uses
2. Parking pursuant to Article 7
3. Signs pursuant to Article 8

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

Use	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage (%)
Permitted Uses	10,000	100	25 (2)	10	20 (3)	45 (1)	70
Conditional Uses	10,000	100	25 (2)	10	20 (3)	45 (1)	70
Accessory Uses	-	-	25 (2)	10	20 (3)	-	10

(1) The maximum height of any use shall be decreased to 35 feet when located within 100 feet of any residential district.

(2) 25 feet front yard setback required only when no parking is present in the front yard. If parking is located in the front yard, then front yard setback is equal to 50 feet.

(3) Refer to Section 4.09.07.

**5.11.07 Use Limitations:**

1. When adjacent to any residential district, no parking, driveways, or signs shall be allowed in the required front yard within 15 feet of such residential district.
2. When adjacent to any residential district, new construction shall provide permanent screen with a height of six feet of six feet four inches if a fence, in order to minimize impacts on residentially zoned property, pursuant to Section 9.03.
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.
5. When adjacent to an alley, the width of the alley shall be included in computing the minimum rear yard setback.
6. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building, unless screened from the residential district by a sight-obscuring fence permanently maintained at least six feet in height.
7. Openings to structures on sides adjacent to or across the street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise, or other adverse effects on residential properties.

8. Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement, except in those portions of the lot maintained as landscape area.

**Section 5.12 C-3 Downtown Commercial District**

5.12.01 *Intent:* The (C-3) Downtown Commercial District is intended to provide for commercial development within the existing downtown area of Creighton that will benefit the retail trade, business, cultural, and social activities of the entire community.

5.12.02 *Permitted Uses:*

The following shall be permitted outright provided the requirements of this ordinance can be met.

1. Business and professional 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. Dance studio, not including uses defined in Adult Establishment.
3. Meeting hall, not including uses defined in Adult Establishment
4. Retail business or service establishment supplying commodities or performing services at a small scale, such as, or in compatibility with and including the following:
  - a. Apparel shop
  - b. Appliance store
  - c. Antique store
  - d. Automobile parts supply store, not including repair or service facilities
  - e. Bakery shop
  - f. Barber and Beauty shop
  - g. Bookstore, not including uses defined in Adult Establishment
  - h. Childcare center
  - i. Clothing and tailoring shops
  - j. Communication services
  - k. Computer store
  - l. Drug stores and prescription shops
  - m. Floral shop and commercial greenhouses
  - n. Furniture store or showroom
  - o. Gift and curio shop
  - p. Grocery store
  - q. Hardware store
  - r. Hobby, craft, toy store
  - s. Indoor amusement and entertainment establishment, including bowling alleys and movie theaters, not including uses defined in Adult Establishment
  - t. Laundry and dry cleaning pick-up and delivery stations
  - u. Liquor store
  - v. Newsstands, not including uses defined in Adult Establishment
  - w. Photography studio
  - x. Picture framing shop
  - y. Restaurants
  - z. Second hand stores
  - aa. Service station and minor automobile repair services
  - bb. Shoe store
  - cc. Tanning salon
  - dd. Variety store, not including uses defined in Adult Establishment
  - ee. Video store, not including uses defined in Adult Establishment
  - ff. Telephone exchange
  - gg. Telephone answering service
5. Publicly owned and operated parks, playgrounds, fire stations, community centers, city offices, recycling operations, and libraries

5.12.03 *Conditional Uses:*

A building or premises may be used for the following purposes in the C-1 Downtown Commercial District if a conditional use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Business or trade school
2. Garden supply and retail garden center
3. Tavern and cocktail lounge, not including uses defined in Adult Establishment
4. Totally enclosed, automated, and conveyor-style car washes
5. Outdoor entertainment
6. Convenience store with limited fuel sales
7. Residences in conjunction with the principle use when located above the ground floor



8. Churches, temples, seminaries, and convents including residences for teachers and pastors
9. Printing and publishing
10. Retail motor vehicle sales and service
11. Car wash
12. Tire store and minor automobile repair service
13. Public utility offices, garages, and dispatcher centers
14. Veterinarian clinics

5.12.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Temporary greenhouses
2. Fireworks stands provided the criteria are met as established by the City through separate Ordinances
3. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work
4. Temporary structure for festivals or commercial events

5.12.05 *Accessory Uses*

The following accessory uses and structures shall be permitted

1. Buildings and uses customarily incidental to the permitted uses
2. Parking pursuant to Article 7
3. Signs pursuant to Article 8
4. Temporary buildings and uses incidental to construction work, which will be removed upon completion or abandonment of the construction, work

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

Use	Lot Area (feet)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)
Permitted Uses	-	-	-	(1)	(2)	60
Permitted Conditional Uses	-	-	-	(1)	(2)	60
Accessory Uses	-	-	-	(1)	(2)	-

(1) None, except that when adjacent to any district requiring a side yard, the side yard setback shall be 10 feet.

(2) 10 feet, except that when adjacent to any residential district, the rear yard setback shall be 25 feet.

5.12.07 *Use Limitations:*

1. When adjacent to any residential district, no parking, driveways, or signs shall be allowed in the required front yard within 15 feet of such residential district.
2. When adjacent to any residential district, new construction shall provide a six foot high permanent screen in order to minimize impacts on residentially zoned property, pursuant to Section 9.03.
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 5.13 I-1 Industrial District

- 5.13.01 *Intent:* It is the intent of the Industrial District to provide standards for areas suitable for some intense 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.

Adult Entertainment Facilities are included in this Zoning District. The intent of the Creighton 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.

### 5.13.02 *Permitted Uses:*

The following principal uses are permitted in the I-1 District.

1. Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials
2. Automobile storage yard, provided all vehicles are kept in an enclosed and screened area
3. Bottling work
4. Building materials yards with enclosed and screened storage areas
5. Carting, express, or storage yard
6. Construction and heavy equipment sales and service
7. Dying and cleaning establishments
8. Farm and industrial equipment sales
9. Highway maintenance yards or buildings
10. Laboratories
11. Machine shop or metal working excluding drop hammers and other noise producing tools.
12. Manufacture and assembly of electrical and electronic appliances
13. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials
14. Printing and publishing business
15. Self-storage units provide the standards of Section 9.07 are met
16. Stone and monument works
17. Utility substations, pumping stations, and water reservoirs
18. Warehouses and wholesale businesses
19. Contractors' yard
20. Grain storage bins and elevators
21. Live-in quarters used by live-in watchman or custodians during periods of construction or when necessary as an accessory to permitted use
22. Livestock auction or sales barn

### 5.13.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the I-1 District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Alfalfa dehydrating plant
2. Asphalt mixing, manufacture, or refining
3. Auto body repair shops, provided the following minimum standards are met:
  - a. All vehicles waiting on repair shall be behind an opaque screened area
  - b. All exhaust fumes from painting areas shall meet all Federal and State requirements
  - c. All parts shall be in a screened in area
  - d. Parts shall not be stack taller than the fence or wall
  - e. Parts are not intended to be inventoried for more than a one year period
  - f. Screened areas and business are not to be used in a manner that would be defined as either a "automobile wrecking yard" or "junk yard"
  - g. Screened in areas shall be opaque fence or solid wall at least eight feet in height
4. Automobile junk yard or wrecking yard provided the standards of Section 9.08 are met
5. Concrete or cement product manufacturing
6. Ethanol plant
7. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs
8. Telecommunication and broadcast tower, pursuant to Section 9.02.
9. Research facilities

10. Truck terminal and dock facilities to include truck washing
11. Adult Entertainment establishments shall conform to these regulations:
  - a. No Adult business shall be closer than 1,000 feet to any similar use and no closer than 1,000 feet to a residential district or use, religious use, educational use or recreational use. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the closest point on the property line of such other adult business, residential district or use, religious use, educational use or recreational use.
  - b. Said businesses shall be screened along adjoining property lines so as to prevent any direct visual contact of the adult business from the perimeter.
  - c. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
  - d. No adult business shall be open for business between the hours of twelve-midnight (12:00 a.m.) and six a.m. (6:00 a.m.).
  - e. The proposed location, design, construction and operation of the particular use shall provide adequate safeguards to protect the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
  - f. Such use shall not impair an adequate supply of light and air to surrounding property.
  - g. Such use shall not unduly increase congestion in the streets or public dangers, including fire and safety hazards.
  - h. Such use shall not diminish or impair established property values in adjoining or surrounding property.
  - i. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of Creighton, Nebraska.
  - j. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property. The application shall also include a site plan defining the areas to be developed for buildings and structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.
  - k. An adult business shall post a sign at the entrance of the premises that shall state the nature of the business and shall state that no one under the age of 18 years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for admission to the premises.
    - l. *Prohibited Activities of Adult Businesses:*
      - A. No adult business shall employ any person under 18 years of age
      - B. No adult business shall furnish any merchandise or services to any person who is under 18 years of age
      - C. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.
      - D. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.

5.13.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work
2. Temporary structure for festivals or commercial events
3. Fireworks stands provided the criteria are met as established by the City through separate Ordinance
4. Temporary Signs as provided in Sections 8.04

**5.13.05 Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses
2. Signs pursuant to Article 8
3. Parking pursuant to Article 7
4. Fences pursuant to Section 9.03, including perimeter fencing over six feet in height

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

	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet) (1)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	10,000	75	25	25	15	45	30%
Conditional Uses	10,000	75	25	25	15	45	30%
Accessory Uses	-	-	25	25	15	45	20%

1. 25 feet setback required only when no parking is present in the front yard. If parking is located in the front yard, then front yard setback is equal to 50 feet.

**5.13.07 Use Limitations:**

1. The minimum height requirement may be exceeded, provided the setback is increased by one foot for every one foot 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 25 feet of said residential district
3. Exterior lighting fixtures, other than publicly installed street lights, shall be located and installed to reflect light away from abutting residential properties

**5.13.08 Performance Standards:**

See Section 9.04 of the supplemental regulations

**Section 5.14: Flood Plain Regulations (FF/FW)**

Refer to the City of Creighton 2005 Flood Plain Ordinance/Resolution Number 707.

LOT AND AREA REQUIREMENTS	MINIMUM LOT AREA		MIN. YARD SETBACK			MAX. HEIGHT	MAX. LOT COVERAGE
ZONING DISTRICT	LOT AREA	LOT WIDTH (feet)	FRONT (feet)	SIDE (feet)	REAR (feet)	IN FEET	PERCENT OF LOT AREA
<b>TA: Transitional Agricultural</b>							
Single-Family Detached	5 acres	150	70*	25	65	35	10%
Permitted Uses	5 acres	150	70*	25	65	35	10%
Conditional Uses	5 acres*	150	70*	25	65	35	10%
Accessory Buildings/Structures	-	-	100*	25	65	35	5%
<b>R-1: Low Density Residential</b>							
Single-family Detached	20,000	75	25	10*	25*	35	40%
Single-family Attached (per unit)	6,600	18*	25	10*	35*	35	40%
Two-family	5,500	75	25	6*	25*	35	40%
Other Permitted Uses	20,000	75	25	10	25*	35	20%
Conditional Uses	10,000	75	25	10	35*	35	40%
Accessory Uses	-	-	25	10	5	17	10%*
<b>R-2: Medium Density Residential</b>							
Single-family Detached (existing)	7,000	50	25	10	25*	35	35%
Single-family Detached (future)	7,500	50	25	10	25*	35	35%
Single-family Attached/Townhouse (per unit)	3,750	18*	25	10*	25*	35	35%
Two-family	8,000	75	25	10	25*	35	35%
Multiple Family	4,000/unit	75	25	*	25*	35	35%
Other Permitted Uses	10,000	80	25	10	25*	35	25%
Conditional Uses	10,000	100	25	10	25*	35	10%
Accessory Uses	-	-	25	10	5	17	10%*
<b>R-3: High Density Residential</b>							
Single-family Detached	7,000	50	25*	10	25*	35	40%
Single-family Attached (2 units only)	3,500/unit	50/unit	25*	10*	25*	35	40%/unit
Two-family	8,000	75	25*	10	25*	35	40%
Condominiums/Townhouses (more than 2 units)	2,500/unit	18/unit	25*	8*	35*	35	40%
Multiple Family (per dwelling unit)	4,000	100	25*	*	25*	35	40%
Other Permitted Uses and Conditional Uses	10,000	100	25	10	25*	35	30%
Accessory Uses	-	-	25	10	5	-	10%
<b>RT: Residential Transition</b>							
Single-family Dwelling	7,000	50	25*	7.5	25	35	35%
Two-family Dwelling	8,000	60	25*	7.5	25	45	40%
Single-family attached	6,000/unit	45/unit	25*	7.5	25	45	40%
Multi-family Dwelling	4,000/unit	75	25*	*	25	35	35%
Townhouses/Condominiums	3,500/unit	50	25*	*	25	35	35%
Other permitted and Conditional Uses	7,000	50	25	10	25	35	25%
Accessory Uses	-	-	25	10	5	17	10%*
<b>C-1: General Commercial</b>							
Permitted Uses	3,500	25	20	*	*	35	80%
Conditional Uses	3,500	25	20	*	*	35	80%
Accessory	-	-	20	*	*	35	40%
<b>C-2: Highway Commercial</b>							
Permitted Uses	10,000	100	25*	10	20*	45*	70%
Conditional Uses	10,000	100	25*	10	20*	45*	70%
Accessory Uses	-	-	25*	10	20*	-	10%
<b>C-3: Downtown Commercial</b>							
Permitted Uses	-	-	-	*	*	60	-
Conditional Uses	-	-	-	*	*	60	-
Accessory Uses	-	-	-	*	*	-	-
<b>I-1: Light Industrial</b>							
Permitted Uses	10,000	75	25	25	15	45	30%
Permitted Conditional Uses	10,000	75	25	25	15	45	30%
Accessory Uses	-	-	25	25	15	45	20%

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

### **Section 6.01 General Provisions**

The City Council may, by conditional use permit after a Public Hearing and referral and recommendation from the Planning Commission after the commission's Public Hearing, 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 City 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 City 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. 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.

### **Section 6.03 Public Hearing**

Before issuance of any conditional use permit, the City 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 Creighton, one time at least 10 days prior to such hearing.

### **Section 6.04 Decisions**

A majority vote of the City Council shall be necessary to grant a conditional use permit. No order of the City Council granting a conditional use permit shall be valid for a period of longer than 12 months from the date of such order, unless the City Council specifically grants a longer period of time upon the recommendation of the Planning Commission.

### **Section 6.05 Standards**

No conditional use permit shall be granted unless the Planning Commission and City Council have found:

- 6.05.01 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.
- 6.05.02 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.
- 6.05.03 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.
- 6.05.04 That adequate utilities, access roads, and drainage facilities have been or are being provided.
- 6.05.05 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.
- 6.05.06 The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- 6.05.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

- 6.05.08 The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
- 6.05.09 The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any public street, road, or highway.
- 6.05.10 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.
- 6.05.11 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.

**Section 6.06 Conditions**

In addition to the Standards listed in Section 6.05, the Planning Commission may recommend, and the City Council may adopt such other conditions as may be necessary or desirable to address such concerns as the most appropriate use of the land, the conservation and stabilization of the value of property, the provision of adequate open space for light and air, concentration of populations, congestion of public streets, and the promotion of the general health, safety, welfare, convenience, and comfort of the public. The City Council may require such conditions and restrictions upon the Conditional Use Permit as may be deemed necessary for the protection of the public interest and to secure compliance with this Ordinance.



## **ARTICLE 7: PARKING REGULATIONS**

### **Section 7.01 Off-Street Automobile Storage**

- 7.01.01 Off-street automobile storage 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 not identified, the ratio of 200 square feet per parking space shall be used.
- 7.01.02 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.
- 7.01.03 Some uses may require two different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require tabulation for classrooms and assembly areas).
- 7.01.04 All parking spaces for single-family dwellings, two or more unit multi-family dwellings, convalescent homes, apartments, townhouses, and mobile homes shall have a suitable hard surface including crushed rock, asphalt, or concrete.
- 7.01.05 Off-street parking requirements shall not apply to the C-3 (Downtown Commercial) Zoning District.
- 7.01.06 In Districts R-1, R-2, R-3, and RT, required off-street parking shall be provided on the lot on where the use to which the parking pertains, or immediately adjacent thereto. In other Districts, such parking may be provided either on the same lot or an adjacent or other lot, provided, however, the lot on which the use requiring them is located and the lot providing the parking are not separated by more than 400 feet at closest points, measured along a street or streets. Such vehicle standing 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. 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.

### **Section 7.02 Off-Street Parking: Shared Parking Requirements**

Notwithstanding the provisions of Section 7.03, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in the center is likely to occur, compliance with the standard retail parking ratios may be decreased by the City Council. Said request for a decrease in parking spaces shall made as an Application for a Conditional Use Permit.

**Section 7.03 Schedule of Minimum Off-Street Parking and Loading Requirements**

<b>Uses</b>	<b>Parking Requirements</b>	<b>Loading Requirements</b>
<b>Adult Entertainment Establishments</b>	One space per two persons of licensed capacity	None required
<b>Bowling Alleys</b>	Four spaces per alley plus one per two employees	One space per establishment
<b>Churches, Synagogues, and Temples</b>	One space per four seats or eight feet of pew length in main worship area	None required
<b>Clubs, including fraternal organizations</b>	One space per 500 s.f. of gross floor area	None required
<b>College/University</b>	Eight spaces per classroom plus one space per employee	Two spaces per structure
<b>Commercial Uses</b>		
<b>Agricultural Sales / Service</b>	One space per 500 s.f. of gross floor area	One per establishment
<b>Automotive Rental / Sales</b>	One space per 500 s.f. of gross floor area	One per establishment
<b>Automotive Servicing</b>	Three spaces per repair stall	None required
<b>Bars, Taverns, Nightclubs</b>	Parking equal to 30% of licensed capacity	Two spaces per establishment
<b>Body Repair</b>	Four spaces per repair stall	None required
<b>Dance Hall</b>	One space per 100 s.f. of gross floor area plus one space per employee	One per establishment
<b>Equipment Rental / Sales</b>	One space per 500 s.f. of gross floor area	One Space
<b>Campground</b>	One space per camping unit	None required
<b>Commercial Recreation</b>	One space per four persons of licensed capacity	One per establishment
<b>Communication Services</b>	One space per 500 s.f. of gross floor area	One per establishment
<b>Construction Sales / Service</b>	One space per 500 s.f. of gross floor area	One per establishment
<b>Food Sales (limited)</b>	One space per 300 s.f. of gross floor area	One per establishment
<b>Food Sales (general)</b>	One space per 200 s.f. of gross floor area	Two per establishment
<b>General Retail Sales establishments</b>	One space per 200 s.f. of gross floor area	One per establishment
<b>Laundry Services</b>	One space per 200 s.f. of gross floor area	None required
<b>Restaurants w/ drive-thru</b>	Greater of the two: One space per 40 s.f. of dining area, or One space per 150 s.f. of gross floor area	One per establishment
<b>Restaurants (General)</b>	Parking equal to 30% of licensed capacity	Two spaces per establishment
<b>Convalescent and Nursing home Services</b>	One space per three beds plus one per employee on the largest shift	Two space per structure
<b>Day Care</b>	One space per employee plus 1 space or loading stall per each 10 persons of licensed capacity	None required
<b>Educational Uses, Primary facilities</b>	Two spaces per classroom	Two spaces per structure
<b>Educational Uses, Secondary facilities</b>	Eight spaces per classroom plus one space per employee on largest shift	Two spaces per structure
<b>Funeral Homes and Chapels</b>	Eight spaces per repose room	Two spaces per establishment
<b>Group Care Facility</b>	One space per four persons of licensed capacity	Two space per structure
<b>Group Home</b>	One space per four persons of licensed capacity	Two space per structure
<b>Guidance Services</b>	One space per 300 s.f. of gross floor area	None required
<b>Hospitals</b>	One space per two licensed beds	Three spaces per structure
<b>Hotels and Motels</b>	One space per rental unit plus one per two employees on largest shift	One space per establishment
<b>Housing (Congregate)</b>		
<b>Assisted-living facilities</b>	One space per dwelling unit plus one space per employee on the largest shift	One per structure
<b>Duplex</b>	Two spaces per dwelling unit	None required
<b>Multi-family / Apartments / Dormitory / Student Lodging</b>	One space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
<b>Industrial Uses</b>	Three spaces for every four employees during the largest shift (.75 times number of employees.)	Two spaces per establishment
<b>Libraries</b>	One space per 400 s.f. of gross floor area plus one space per employee	One per structure
<b>Boarding Houses / Bed and Breakfasts</b>	One space per rental units	None required
<b>Medical Clinics</b>	Five spaces per staff doctor, dentist, chiropractor	None required
<b>Mobile Home Park</b>	Two per dwelling unit	None required
<b>Offices and Office Buildings</b>	One space per 200 s.f. of gross floor area	None required
<b>Residential (Single-family, attached and detached)</b>	Two spaces per dwelling unit	None required
<b>Roadside stands</b>	Four spaces per establishment	None required
<b>Service Oriented Establishments</b>	One space per 200 s.f. of gross floor area	One per establishment
<b>Theaters, Auditoriums, and Places of Assembly</b>	One space per five persons of licensed capacity	One space per establishment
<b>Veterinary Establishments</b>	Three spaces per staff doctor	None required
<b>Wholesaling / Distribution Operations</b>	One space per two employees on the largest shift	Two spaces per establishment

**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 lot, if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured from that lot.

Total Parking Spaces	Required Minimum Number of Accessible Spaces
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	2 percent of the total
1,001 and over	20, plus 1 for each 100 over 1,000

7.04.02 Except as provided to Section 7.04.01 of this Ordinance, access aisles adjacent to accessible spaces shall be five feet wide minimum.

1. One in every eight accessible spaces, but not less than one, shall be served by an access aisle eight feet 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 accessible parking spaces may share a common access aisle.
3. Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with slopes not exceeding two percent in all directions.
4. If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 7.04.06 of this Ordinance.
5. 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: 10 percent of 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: 20 percent 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 and adjacent parking, the accessible parking spaces shall be dispersed and located closest to each accessible entrance.

7.04.04 Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying 7.04.02(1) shall have an additional sign "Van Accessible" mounted below the symbol of accessibility. Such signs shall be located so a vehicle parked in the space cannot obscure them.

7.04.05 The minimum vertical clearance shall be nine and one-half feet 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 98 inches at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).

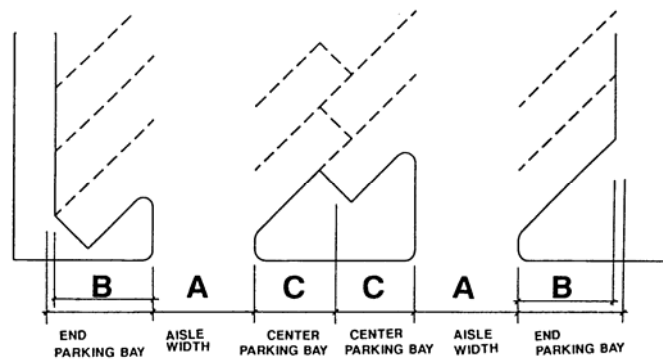
7.04.06 Passenger Loading Zones shall provide an access aisle at least five feet wide and 20 feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up

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 in all directions.

### Section 7.05 Off-Street Parking Design Criteria

7.05.01 Standard parking stall dimensions shall not be less than nine feet by 18 feet, plus the necessary space for maneuvering into and out of the space. For standard parking lots, minimum dimensions shall be as follows:

Parking Configuration			
	90-degree	60-degree	45-degree
<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



- 7.05.02 All areas used for standing and maneuvering of vehicles shall be designed such that drainage across sidewalks is minimized.
- 7.05.03 Where the end of the parking space abuts a curbed area at least five feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet.
- 7.05.04 Minimum dimensions for a parallel parking space shall be nine feet by 23 feet.
- 7.05.05 Artificial lighting used in a parking lot shall be so designed as to deflect light away from adjacent residential dwellings.
- 7.05.06 All parking spaces, except for those used in conjunction with a residential dwelling, shall be located such and served with a driveway such that their use will require no backing movements or maneuvering within a street right-of-way other than an alley.
- 7.05.07 Service drives shall not be more than 30 feet in width, and shall conform to the minimum sight triangle requirements for unobstructed vision. Service drives shall also be clearly and permanently marked and defined through the use of rails, fences, walls, or other barriers or markers.
- 7.05.08 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the City Council upon recommendation of the City Engineer.
- 7.05.09 All of the requirements of this Section shall be complied with, and all off-street parking requirements shall be made available for use prior to the issuance of a Certificate of Occupancy. A time extension may be granted by the Zoning Administrator, provided a performance bond, or its equivalent, is posted which equals the cost to complete the parking improvements as estimated by the Zoning Administrator, and provided the parking requirements are not required for immediate use. In the event the improvements are not completed within one year of any such extension, the bond or its equivalent shall be forfeited and the improvements shall be completed under the direction of the City Council.

**ARTICLE 8: SIGN REGULATIONS****Section 8.01 Signs: Standard of Measurement**

8.01.01 The total area of all signs permitted on a lot shall include:

1. The total area of the faces of all permanent exterior signs visible from a public way, plus
2. The area of permanent signs placed upon the surface of windows and doors, plus
3. The area within the outline enclosing the lettering, modeling or insignia of signs integral with a wall and not designed as a panel.

8.01.02 Wall signs shall not exceed one and one-half square feet per lineal foot of lot frontage, up to 100 square feet in total size. A building or use having frontage on a second street may include 20 percent of the length of the lot facing the second street.

**Section 8.02 Signs: Area Computation**

8.02.01 *Computation of Area of Individual Signs:* The area of a sign face (which is also the sign area of a wall sign or other sign with only one 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.

8.02.02 *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 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

8.02.03 *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. Normal grade shall be construed to be the lower of (1) existing grade prior to construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign, or (2) normal grade. 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 zone lot, whichever is lower.

**Section 8.03 Sign Schedule**

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

<b>Zoning District</b>	<b>TA</b>	<b>RT</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>
<b><u>Sign Type</u></b>									
<b>Real Estate</b>	+	+	+	+	+	+	+	+	+
<b>Announcement</b>	-	+	+	+	+	+	+	+	+
<b>Wall</b>	-	+	-	-	-	+	C	+	+
<b>Name Plate</b>	+	+	+	+	+	+	+	+	+
<b>Billboard</b>	-	-	-	-	-	C	C	-	-
<b>Ground</b>	C	-	-	-	-	+	+	+	+
<b>On-Site Advertising</b>	+	-	-	-	-	+	+	+	+
<b>Off-Site Advertising</b>	-	-	-	-	-	-	-	-	-
<b>Animated or Flashing</b>	-	-	-	-	-	-	-	-	-
<b>Pole</b>	-	-	-	-	-	+	+	+	+

+: permitted

-: not permitted

C: Conditional Use

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

<b>Zoning District</b>	<b>TA</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>RT</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>
<b>Sign Type</b>									
<b>Real Estate</b>									
Max. Square Ft.	32	6	6	6	6	32	32	32	32
Max. Height (ft)	6	-	-	-	-	4	4	4	4
<b>Announcement</b>									
Max. Square Ft.	32	6	6	6	6	32	32	32	32
Max. Height (ft)	4	4	4	4	4	4	4	4	4
<b>Wall</b>									
Max. Square Ft.	50	-	-	-	-	100	100	100	200
Max. Height (ft)	15	-	-	-	-	45	45	45	45
<b>Name Plate</b>									
Max. Square Ft.	2	2	2	2	2	-	-	-	-
Max. Height (ft)	-	-	-	-	-	-	-	-	-
<b>Billboard</b>									
Max. Square Ft.	-	-	-	-	-	-	-	-	-
Max. Height (ft)	-	-	-	-	-	-	-	-	-
<b>Ground</b>									
Max. Square Ft.	100	-	-	-	-	100	100	100	200
Max. Height (ft)	10	-	-	-	-	10	10	10	10
<b>On-Site Advertising</b>									
Max. Square Ft.	100	-	-	-	-	100	100	100	200
Max. Height (ft)	45	-	-	-	-	45	45	45	45
<b>Off-Site Advertising</b>									
	-	-	-	-	-	-	-	-	-
<b>Pole</b>									
Max. Square Ft.	-	-	-	-	-	100	100	100	200
Max. Height (ft)	-	-	-	-	-	15	15	15	15

- : Not Permitted

#### Section 8.04 Signs: Special Conditions

8.04.01 *Temporary Signs*: Temporary signs shall meet the following criteria:

1. No temporary sign shall be of such size, message, or character so to harm the public, health, safety, or general welfare.
2. Temporary signs may be for a continual period that has a limited amount of time not to exceed 10 days except that Real Estate signs may be in place until the property sale is finalized and construction signs until such construction is finished.
3. Campaign signs are limited to six per lot, may be erected 30 days before the election and shall be removed no later than seven days following such election.

8.04.02 *Real Estate*: Not more than two signs per lot, no larger than six square feet, may be used as a temporary sign. Signs in the TA District shall be set back 20 feet from the road right-of-way or road easement. Signs may be permitted until property is sold.

8.04.03 *Freestanding Signs*: Freestanding signs, including but not limited to billboard, ground, and pole signs shall constitute a structure for the purposes of this Ordinance, and shall require a building permit prior to their installation.

8.04.04 *Community Events and Functions*: Signs used to display information for a community event or function shall be permitted in all zoning districts, provided they are temporary only, and are not placed in the right-of-way.

8.04.05 *Billboards*: Billboards, signboards, and other similar advertising signs subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions.

1. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
2. No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.

3. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
- 8.04.06 *Hanging Signs:* Signs hung from canopies and awnings shall be no closer than seven and one-half feet from the bottom edge of the sign to grade below.
- 8.04.07 *Signs in the Public Right-of-Way:* No signs shall be allowed in the public right-of-way, except for the following:
  1. Permanent signs, including:
    - a. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, advertise community events, and direct or regulate pedestrian or vehicular traffic.
    - b. Information signs of a public utility regarding its poles, lines, pipes, or facilities; and
    - c. Awning, projecting, and suspended signs projecting over a public right-of-way in conformity with the conditions of 8.03.

**ARTICLE 9: SUPPLEMENTAL REGULATIONS****Section 9.01 Home Occupations**

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

- 9.01.01 One unlit nameplate of not more than two square foot in area attached flat against the building located on local or collector streets. The area may be increased to four square feet when attached flat against a building located on arterial streets.
- 9.01.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- 9.01.03 No more than 50 percent of the home or an accessory building or structure shall be used for the home occupation.
- 9.01.04 No more than one employee or co-worker other than the resident(s) shall work from that site.
- 9.01.05 No retail sales are permitted from the site other than incidental sales related to services provided.
- 9.01.06 No exterior storage (excluding storage within accessory buildings or structures, pursuant to Section 9.07 above) shall be permitted.
- 9.01.07 Additional off-street parking may be required for the business.
- 9.01.08 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
- 9.01.09 All businesses related to Family Child Care Home I and Family Child Care Home II shall be licensed in accordance with Neb. Rev. Stat. §71-1902 (R.R.S. 1997).

**Section 9.02 Wireless Communication Towers****9.02.01 Intent:**

Based upon 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 broadcast 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 service. It is the intent of the City Council to regulate telecommunication facilities, towers and antennas in the City to protect residential areas and land uses from the potential adverse impacts caused by the 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 allow 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.

**9.02.02 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. **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.
- 2. **ANTENNA SUPPORT STRUCTURE** shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.
- 3. **APPLICANT** shall mean any person that applies for a Tower Development Permit.



4. **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.
5. **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.
6. **ENGINEER** shall mean any engineer qualified and licensed by any state or territory of the United States of America.
7. **OWNER** shall mean any person with a fee simple title or a leasehold exceeding 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.
8. **PERSON** shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
9. **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.
10. **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.
11. **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:
  - a). Any Conforming Commercial Earth Station antenna six feet or less in diameter.
  - b). Any earth station antenna or satellite dish antenna three feet or less in diameter.
12. **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 operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
13. **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; which 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 permit's duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.
14. **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.

**9.02.03 Location of Towers and Construction Standards**

1. Towers shall be permitted 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 City Clerk's Office and shall pay a filing fee.

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 Ordinance shall conform to the Building Codes and all other construction standards set forth by City, County, federal, and state laws and applicable American National Standards Institute (ANSI) standards. 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 office of the City Clerk.

#### **9.02.04 Application to Develop a Tower**

Prior to commencement of development or construction of a tower, an application shall be submitted to the City Clerk 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. The application shall be executed by all applicants.
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 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 applicable Building Codes, 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.

#### **9.02.05 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 time and at least 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. Such notice shall conform to Article 6 of this Ordinance. 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.

#### **9.02.06 Setbacks and Separation or Buffer Requirements**

1. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base 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.

2. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.
3. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of 100 percent of the height of the tower.
4. Towers must meet the following minimum separation requirements from other towers:
  - a. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
  - b. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.

**9.02.07 Structural Standards for Towers Adopted**

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 Article of the Zoning Regulation.

**9.02.08 Illumination and Security Fences**

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA).
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 prevent, to the extent practical, unauthorized climbing of said structure.

**9.02.09 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 stealth design unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.

**9.02.10 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.

**9.02.11 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.

**9.02.12 Inspections**

The City reserves 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. Inspections shall be made by either an employee of the City Clerk's Office, Zoning Administrator, or a duly appointed independent representative of the City.

**9.02.13 Maintenance**

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.

**9.02.14 Abandonment**

If any tower shall cease to be used for a period of one year, the Clerk's Office shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of 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 that 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 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 Zoning Administrator, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and City of Creighton codes, 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.

**9.02.15 Satellite Dish Antennas, Regulation**

Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Creighton only upon compliance with the following criteria:

1. In residentially zoned districts, satellite dish antennas may not exceed a diameter of 10 feet.
2. Single family residences may not have more than one satellite dish antenna over three feet in diameter.
3. Multiple family residences with 10 or less dwelling units may have no more than one satellite dish antenna over three feet in diameter. Multiple family residences with more than 10 dwelling units may have no more than two satellite dish antennas over three feet 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.
5. All satellite dish antennas installed within the zoning jurisdiction of Creighton, 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 9.03 Fences**

No fence shall be constructed within the zoning jurisdiction of the City of Creighton unless it is constructed in conformance with the following requirements:

**9.03.01 Height Limitations**

The height limitation for fences shall be 72 inches above ground level except as provided herein.

1. No fence shall be constructed within a required front yard of any lot, except as may be otherwise provided herein.
2. All fences around junk yards, salvage yards shall be a minimum of eight feet in height.
3. The height of a fence shall be determined by the vertical distance measured from the established grade level at the nearest sidewalk, top of curb, or other public right-of-way to the top of the highest part of the fence. Earthen berms, whether manmade or not, terraces, and retaining walls that elevate the fence shall be considered a part of the fence, and shall be included in the height of the fence. It is not intended that any structure other than a fence is permitted on any part of a lot or premises by this section, and all other structures shall comply with the provisions of this Ordinance.
4. Where it is demonstrated that for security purposes the perimeter fencing around a factory or building located in an area zoned as an Industrial District must be higher than six feet in height may be approved by through a Conditional Use Permit or otherwise prescribed herein.
5. 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 in height.
6. 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 in height.

**9.03.02 Design Criteria/Location**

1. Fences located within a front of a residential lot shall not exceed 42 inches in height and 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.
2. No fence or vegetation shall be situated or constructed in such a way as to obstruct vehicular traffic or otherwise create a traffic safety hazard. No fence or vegetation shall be situated or constructed within the required sight triangle.
  3. The use of barbed wire in the construction of any fence is prohibited except:
    - a. Perimeter security fencing of buildings constructed in a General Commercial or Industrial District. The plans and specifications for any such fencing must be approved by the City before commencement of construction.
    - b. Farm fencing constructed for agricultural purposes on parcels of land in the Transitional Agriculture District.
  4. All supporting posts for fence construction shall be set in concrete except for agricultural fencing in the Transitional Agriculture District.
  5. All fences shall be maintained in good repair.
  6. All fences shall be located inside the boundaries of the property upon which constructed except where two adjacent property owners, pursuant to written agreement filed with the City, agree to build one fence on the common lot line of adjacent side yards or back yards.

#### *9.03.03 Electric Fences*

No electric fence shall be constructed or maintained within the City of Creighton or within its extraterritorial zoning jurisdiction except in the Transitional Agriculture District.

#### *9.03.04 Facing*

The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two 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.

#### *9.03.05 Fences in existence as of the date of adoption of this Ordinance*

Any existing fence which was in conformity with the provisions of any previous ordinance and which was in place as of the date of adoption of this Ordinance may remain without change, notwithstanding same may be in conflict with one or more provisions of this Ordinance. However, any replacement or change of said existing fence or addition of a new fence shall meet the requirements of this Ordinance.

#### *9.03.06 Swimming Pools*

All above- or in-ground swimming pools of a permanent nature constructed within the zoning jurisdiction of the City of Creighton shall comply with the regulations of the State of Nebraska Health and Human Services and any other local entity.

### **Section 9.04 Performance Standards for Industrial Uses**

#### *9.04.01 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.

#### *9.04.02 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 Creighton.

#### *9.04.03 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.

9.04.04 *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.

9.04.05 *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 a 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.

**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 Ordinance.

**Gasses:** The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million, carbon monoxide shall not exceed five parts per million. All measurements shall be taken at the zoning lot line.

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

**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 five degrees Fahrenheit.

## **Section 9.05 Small Wind Energy Systems**

9.05.01 Purpose

It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

9.05.02 Definitions

The following are defined for the specific use of this section.

1. **Small Wind Energy System** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

2. **Tower Height** shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

#### 9.05.03 Requirements

Small wind energy systems shall be permitted as an Accessory Use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met:

1. **Tower Height**
  - a. For property sizes between one-half acre and one acre the tower height shall be limited to 80 feet.
  - b. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
2. **Setbacks**
  1. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.
3. **Noise**
  1. Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.
  2. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.
4. **Approved Wind Turbines**
  1. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
5. **Compliance with Building and Zoning Codes**
  1. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
  2. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Iowa and certified by a licensed professional engineer shall also be submitted.
  3. The manufacturer frequently supplies this analysis.
  4. Wet stamps shall not be required.
6. **Compliance with FAA Regulations**
  1. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
7. **Compliance with National Electrical Code**
  1. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
  2. The manufacturer frequently supplies this analysis.
8. **Utility Notification**
  1. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
  2. Off-grid systems shall be exempt from this requirement.

## 9.05.04 Setbacks

All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Non Commercial WECS	Meteorological Towers
Property Lines	One times the total height	One times the tower height.
Neighboring Dwelling Units*		One times the tower height.
Road Rights-of-Way**	One times the tower height.	One times the tower height.
Other Rights-of- Way	One times the tower height.	One times the tower height.
Wildlife Management Areas and State Recreational Areas	NA	600 feet
Wetlands, USFW Types III, IV, and V	NA	600 feet
Other structures adjacent to the applicant's sites	NA	One times the tower height.
Other existing WECS not owned by the applicant.	NA	
River Bluffs		

\* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

\*\* The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-Way is known.



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**Section 9.06 Commercial/Utility Grade Wind Energy Conversion Systems****9.06.01 Purpose**

It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy conversion systems within the zoning jurisdiction of Creighton, Nebraska.

**9.06.02 Definitions**

The following are defined for the specific use of this section.

1. **Aggregate Project** shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.
2. **Commercial WECS** shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.
3. **Hub Height** shall mean the distance from ground level as measured to the centerline of the rotor.
4. **Fall Zone** shall mean the area, defined as the furthest distance from the tower base, in which a guyed or tubular tower will collapse in the event of a structural failure. This area may be less than the total height of the structure.
5. **Feeder Line** shall mean any power line that carries electrical power from one or more wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
6. **Meteorological Tower** shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
7. **Property Line** shall mean the boundary line of the area over which the entity applying for a Wind Energy Conversion System permit has legal control for the purpose of installing, maintaining and operating a Wind Energy Conversion System.
8. **Public Conservation lands** shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
9. **Rotor Diameter** shall mean the diameter of the circle described by the moving rotor blades.
10. **Small Wind Energy System** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
11. **Substations** shall mean any electrical facility to convert electricity produced by wind turbines to a higher voltage for interconnection with high voltage transmission lines.
12. **Total Height** shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.
13. **Tower** shall mean the vertical structures, including the foundation, that support the electrical generator, rotor blades, or meteorological equipment.
14. **Tower Height** shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.

15. **Transmission Line** shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
16. **Wind Energy Conversion System** shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
17. **Wind Turbines** shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

#### 9.06.03 Requirements

Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within any district where the use is listed and allowed. The following requirements and information shall be met and supplied:

1. The name(s) of project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
5. Site layout, including the location of property lines, wind turbines, feeder lines, and all related accessory structures. This site layout shall include distances and be drawn to scale.
6. Certification by an Engineer competent in disciplines of WEC's.
7. Documentation of land ownership or legal control of the property.
8. The latitude and longitude of individual wind turbines; included with this shall be an area or zone in close proximity that meets all setbacks; where actual WEC will be considered.
9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed Wind Energy Conversion System not owned by the applicant.
10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed Wind Energy Conversion System.
11. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met
12. The applicant shall supply the emergency management agency and/or fire departments with a basic emergency response plan.
13. FAA and FCC permit, if necessary. Applicant shall submit permit or evidence that the permit has been filed with the appropriate agency.
14. Evidence that there will be no inference with any commercial and/or public safety communication towers.
15. Decommissioning Plan as required by this regulation.

#### 9.06.04 Aggregated Projects

1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.

#### 9.06.05 Setbacks

All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines	150 feet from property lines; however, the setback may be less when two adjoining property owners are within the aggregate project.	One times the tower height.
Neighboring Dwelling Units*	1,000 feet	One times the tower height.
Road Rights-of-Way**	One-half the rotor diameter.	One times the tower height.
Other Rights-of-Way	NA	NA
Wildlife Management Areas	600 feet	600 feet

and State Recreational Areas		
Wetlands, USFW Types III, IV, and V	600 feet	600 feet
Other structures and cemeteries adjacent to the applicant's sites	One-half the rotor diameter.	One times the tower height.
Other existing WECS not owned by the applicant.	NA	NA
River Bluffs	One-half the rotor diameter.	NA

\* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

\*\* The setback shall be measured from any future Rights-of-Way if a planned change or expanded Right-of-Way is known.

#### 9.06.06 Special Safety and Design Standards

All towers shall adhere to the following safety and design standards:

1. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
2. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
3. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
4. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
5. Color and finish:  
All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.
6. Lighting:  
Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.
7. Other signage:  
All other signage shall comply with the sign regulations found in these regulations.
8. Feeder Lines:  
All communications and feeder lines associated with the project distribution system installed as part of a WECS shall be buried, where physically feasible. Where obstacles to the buried lines create a need to go above ground, these lines may be placed above ground only to miss the obstacle. All distribution and/or transmission lines outside of the project distribution system may be above ground.
9. Waste Disposal:  
Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
10. Discontinuation and Decommissioning:  
A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four feet below ground level within 180 days of the discontinuation of use. The 180 days may be extended if proof of weather delays is provided.

Each Commercial/Utility WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.

11. Noise:

No Commercial/Utility WECS shall exceed 50 dBA at the nearest structure or use occupied by humans.

12. Interference:

The applicant shall minimize or mitigate interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the county for permits.

13. Roads:

Applicants shall:

- a. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
- b. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road.
- c. Be responsible for restoring the road(s) and bridges to preconstruction conditions.

14. Drainage System:

The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

**Section 9.07 Self Storage Units / Convenience Storage Units**

- 9.07.01 Minimum lot size of the self storage facility shall be one acres.
- 9.07.02 Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
- 9.07.03 All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt, or asphaltic concrete. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.
- 9.07.04 All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
- 9.07.05 No storage may open into the front yards.
- 9.07.06 Facilities must maintain landscape buffer yards of 50 feet adjacent to any public right-of-way and 20 feet adjacent to other property lines, unless greater setbacks are require, a total of 35 percent of all buffers shall be landscaped.
- 9.07.07 Height limitations shall require a maximum height of 20 feet for any structure in the facility.

**Section 9.08 Auto Wrecking Yards, Junk Yards Salvage Yards and Scrap Processing Yards**

- 9.08.01 The use shall be located on a tract of land at least 300 hundred feet from a residential district.
- 9.08.02 The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded by a solid fence or wall at least eight feet high.
- 9.08.03 The fence or wall shall be uniform in height, texture, and color, and shall be so maintained by the proprietor as to ensure maximum safety to the public, obscure the junk from normal view of the neighborhood.
- 9.08.04 The fence or wall shall be installed in such a manner as to retain all scrap, junk, or other material within the yard. No scrap, junk or other salvaged materials may be piled or stacked so to exceed the height of the enclosing fence or wall.
- 9.08.05 No junk shall be loaded, unloaded or otherwise placed either temporarily or permanently outside the enclosed building, fence or wall, or within the public right-of-way.
- 9.08.06 Burning of paper, trash, junk or other materials shall be prohibited.

**ARTICLE 10: BOARD OF ADJUSTMENT****Section 10.01 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. 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 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 sections 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 10.02 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 10.03 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; and
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:

1. The strict application of the Ordinance would produce undue hardship; and

2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
3. 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
4. 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 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 10.04 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 11: AMENDMENTS

### Section 11.01 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 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 300 feet therefrom, and of those directly opposite thereto extending 300 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the legislative body of such municipality. The provisions of Neb. Rev. Stat. §19-904 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 18 inches in height and 24 inches in width with a white or yellow background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least 10 days prior to the date of such hearing.

1. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing.
2. Any person so doing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than 50 dollars or more than 100 dollars.
3. If the record title owners of any lots included in such proposed change be nonresidents of the municipality, then a written notice of such hearing shall be mailed by certified mail to them addressed to their last-known addresses at least ten days prior to such hearing.
4. At the option of the legislative body of the municipality, in place of the posted notice provided above, the owners or occupants of the real estate to be zoned or rezoned and all real estate located within 300 feet of the real estate to be zoned or rezoned may be personally served with a written notice thereof at least ten 10 days prior to the date of the hearing, if they can be served with such notice within the county where such real estate is located.
5. Where such notice cannot be served personally upon such owners or occupants in the county where such real estate is located, a written notice of such hearing shall be mailed to such owners or occupants addressed to their last-known addresses at least ten 10 days prior to such hearing.

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 types of zoning districts are proposed, whether or not such additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the City, but only the requirements of Neb. Rev. Stat. § 19-904 shall be applicable.

### Section 11.02 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 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.

In addition, any person or persons seeking such an amendment, supplement, change, or modification of any zoning district, shall comply with the following:

- 11.02.01 At the time that application for a change of zoning district or amendment to the zoning text is filed with the Planning Commission, there shall be deposited a fee of \$50, as established by the City Council, to cover investigation, legal notices, or other expenses incidental to the determination of such matter.

### Section 11.03 Zoning Administrator

The provisions of this Ordinance shall be administered and enforced by a designated Zoning Administrator 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 11.04 Building Permits**

The following shall apply to all new construction and all applicable renovations and remodels within the zoning jurisdiction of Creighton:

11.04.01 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 building permit for such work.

11.04.02 Issuance of a building permit. In applying to the Zoning Administrator for a building 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 is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a building permit for such excavation or construction. If a building 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 a reasonable time 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 building permit shall become void 6 months from the date of issuance unless substantial progress has been made by that date on the project described therein. Said permit may become void if substantial work has not been performed on a project for more than six months.

**Section 11.05 Certificate of Occupancy**

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 five business 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 occupancy 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 11.06 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 lessee or tenant of an entire building or entire premises in or upon which 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 may be confined in jail not more than 30 days or shall be punished by a fine not to exceed 100 dollars for any one 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 11.07 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 12: COMPREHENSIVE PLAN RELATIONSHIP**

This zoning ordinance is 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 13: LEGAL STATUS PROVISIONS**

### **Section 13.01 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 13.02 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 13.03 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 13.04 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 City Council of Creighton, Nebraska,

This \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Mayor

ATTEST:

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

(Seal of the City of Creighton)

**2007 ZONING ORDINANCE  
FOR THE CITY OF  
CREIGHTON, NEBRASKA**