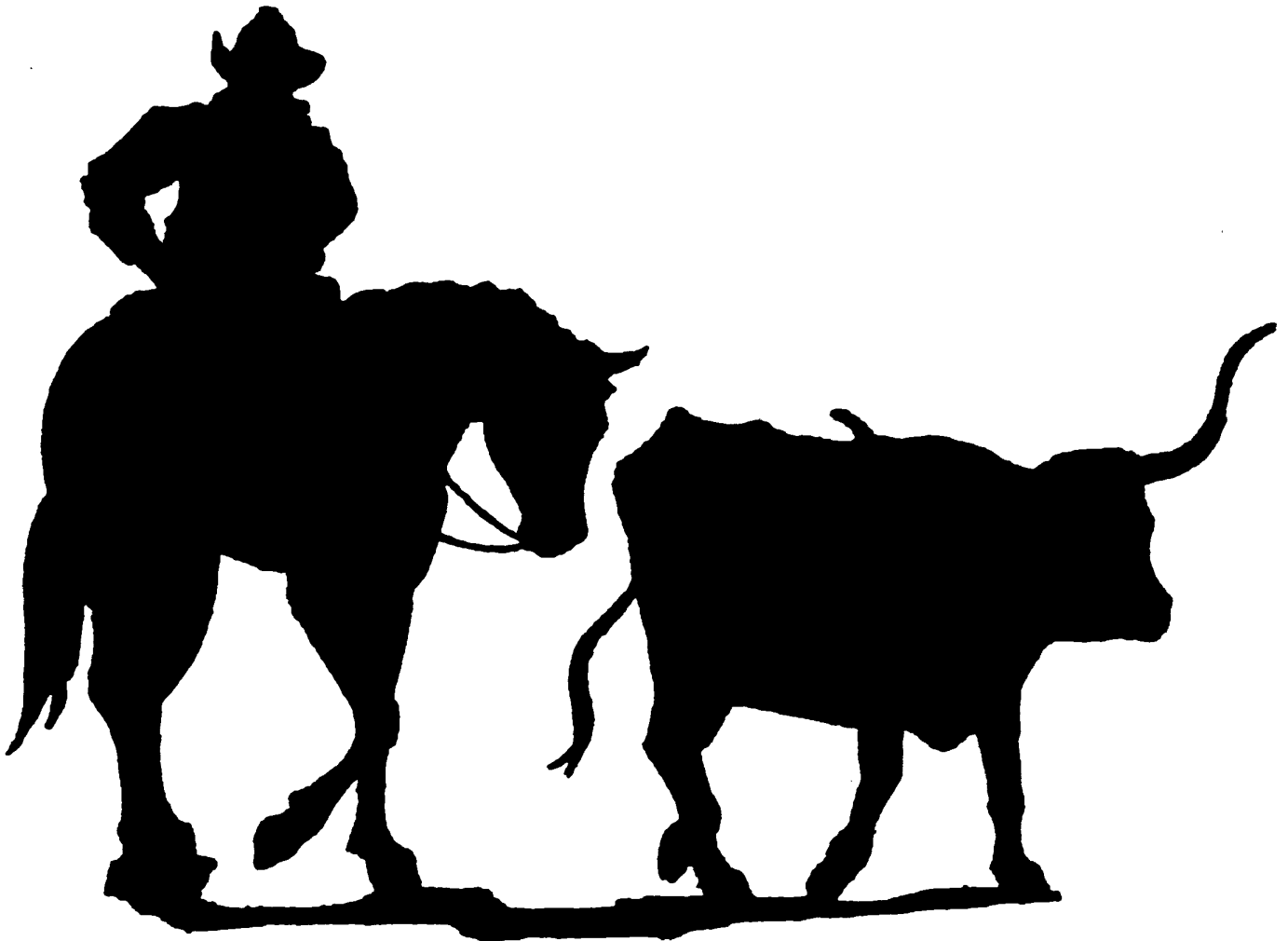


# ***CITY OF OGALLALA***

**Sections 38 & 44 Adopted by Reference**

MUNICIPAL CODE

Adopted October 08, 2019



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# CHAPTER 38

## SUBDIVISIONS

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### ARTICLE 1

#### GENERAL PROVISIONS

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**38-101. Purpose.**

The subdivision regulations as herein set forth are intended to provide for harmonious development of the City and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the Comprehensive Plan of the City; for adequate open spaces for traffic, recreation, light, and air; for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience, or prosperity; to insure conformance of subdivision plans with the capital improvement program of the City and its Planning Area; and, to secure equitable handling of all subdivision plats by providing uniform procedures and standards for observance by subdividers and the Planning Commission and Council.

**38-102. Jurisdiction.**

The provisions of these regulations shall apply to all land located within the legal boundaries of the City, as the same may be amended by subsequent annexation, and shall also include all land lying within two miles of the corporate limits of the City and not located in any other City.

Statutory reference Neb. RS 16-901, 16-902

**38-103. Definitions.**

All definitions contained in 44-104 of this code are hereby adopted and incorporated into this chapter and are hereby declared to be in full force and effect as to both Chapters 38 and 44 of this code.

**38-104. Approval of subdivisions required.**

From and after the time when the Council shall have adopted a Comprehensive Plan, no plat of a subdivision of land lying within the Planning Area of the City shall be filed or recorded until it shall have been submitted to the Planning Commission, and a report and recommendation thereon made by the Planning Commission to the Council and the Council has approved the final plat.

Statutory reference: Neb. RS 16-903, 16-904

**38-105. Interpretation.**

In interpreting and applying these regulations, they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare.

**38-106. Conflicting provisions.**

No final plat of land within the force and effect of the existing zoning chapter shall be approved unless it conforms to the regulations of this chapter. Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in the zoning chapter, building regulations chapter, or other official regulations or ordinances, the most restrictive shall apply.

Statutory reference: Neb. RS 19-914

**38-107. Amendments.**

Any regulations or provisions of these regulations may from time to time be amended, supplemented, changed, modified, or repealed by the Council; provided, however, that such amendments shall not become effective until after a study and a report by the Planning Commission, and until after a public hearing in relation thereto has been held, public notice of which shall have been published in a newspaper of general circulation at least one time ten days prior to such hearing.

Statutory reference: Neb. RS 19-905, 19-904

**38-108. Variances, modifications, and waivers.**

(1) Where, in the case of particular proposed subdivision, it can be shown that strict compliance with the requirements of this regulation would result in extraordinary hardship to the subdivider because of unusual topography or other such non-self-inflicted conditions, or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the Council, after report by the Planning Commission and review by the Ogallala Planning & Zoning Administrator, may vary, modify, or waive the requirements so that substantial justice may be done and the public interest secured; provided, however, that: such variance, modifications, or waiver will not adversely affect

the development, the character of which shall be in conformance with recommended platting and development practices in the general area of the proposed subdivision; will not have the effect of nullifying the intent and purpose of the regulations; and will not interfere with carrying out the Comprehensive Plan of the Planning Area of the City. The standards and requirements of these regulations may be modified by the Council after report by the Planning Commission and review by the Ogallala Planning & Zoning Administrator in the case of a plan or program for a new town, a complete community, a neighborhood unit, a group housing development, or an urban renewal project involving the resubdividing and rebuilding of blighted or slum areas; provided, however, that the area within which modifications are granted contains not less than five acres; and provided further that the placement of structures within the area is shown on the development plan and becomes a part of the recorded plat.

(2) In granting variances and modifications, the Council may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified. Such variances and waivers may be granted only by the affirmative vote of three-fourths of the Members of the Council.

Statutory reference: Neb. RS 19-907

## **ARTICLE 2 PROCEDURE FOR SUBDIVISION APPROVAL**

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### **38-201. Administrative subdivision.**

(1) If the proposed subdivision consists of a deed or instrument dividing an existing lot, lots, or blocks in a previously platted subdivision or addition to the City where all public improvements have been installed and no new dedication of public rights-of-way or easements is involved and when such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, the subdivider may submit the deed or instrument which will divide the property in question directly to the City Manager, accompanied by the following:

- (a) A copy of the recorded plat of the subdivision which contains the said lot, lots, or blocks with the location of existing structures shown on the property being conveyed.
- (b) The name or names of the owners placed on said copy of the recorded plat.
- (c) The legal description of the property being divided placed on said copy of the

recorded plat.

(2) Upon review of the deed or instrument and plat copy as required in subsection (1) herein, the City Manager may approve or disapprove the same. If approved, such plat shall be equivalent to a deed in fee simple absolute to the City from the proprietor of all streets, avenues, alleys, public squares, parks, and commons and of such portion of the land as is therein set apart for public and City use, or is dedicated to charitable, religious, or educational purposes.

(3) If the City Manager disapproves said deed or instrument, the subdivider may, within seven days from said disapproval, file a notice of appeal of the City Manager's decision with the Commission. Said notice shall be accompanied with a copy of the deed or instrument and plat copy, as required in subsection (1) herein. After reviewing the same, the Commission may waive all platting and other subdivision requirements under this chapter and forward the deed or instrument to the Council, with its recommendation for approval.

(4) Upon receipt of the deed or instrument from the Commission pursuant to subsection (3) herein, the Council shall give its approval or disapproval of the same. If disapproved, said deed or instrument shall be returned to the Commission for subdivision requirements consistent with this chapter.

**38-202. Preliminary review.**

Prior to the subdivision of any land, the subdivider or his or her agent may discuss informally with the Planning Commission the property proposed for subdivision, with reference to these subdivision regulations and procedures, zoning regulations and controls, and the City's Comprehensive Plan.

**38-203. Preliminary plat contents.**

The preliminary plat shall be drawn to a scale of one inch to 200 feet or larger; shall be plainly marked "Preliminary Plat," and shall include, show, or be accompanied by the following information:

(1) The proposed name of the subdivision, which must not be so similar to that of an existing subdivision as to cause confusion.

(2) The names and addresses of the owner and subdivider, and the engineer, surveyor, or landscape architect responsible for the survey or design.

(3) The legal description of the area being platted.

(4) The boundary line (accurate in scale, dimensions, and location of the property to be platted), the location of monuments found or set, section lines, contours with intervals of five feet or less, and the approximate acreage of the property to be platted.

(5) A date, scale, and north point, and a key map showing the general location of the proposed subdivision in relation to surrounding developments.

(6) The names and location of adjacent subdivisions and the name of record owners and location of adjoining parcels of unplatted land.

(7) The location of property lines and the width and location of platted streets or alleys within or adjacent to the property; physical features of the property, including the location of watercourses, ravines, bridges, culverts, present structures, and other features affecting the subdivision; and the location of all existing utilities with their sizes indicated. The outline of wooded areas or the location of important individual trees may be required.



(8) The layout or location, numbers or names, and approximate dimensions or widths of all proposed lots; of all building setback lines and easements; and of all streets, alleys, and grounds proposed to be dedicated for public use.

(9) The name, location, and width of proposed streets, roads, lots, alleys, and other features, and their relation to streets and alleys in adjacent subdivisions. If there are not adjacent subdivisions, then the key map shall show the location and distance to the nearest subdivision, and how the streets, alleys, or highways in the subdivision offered for approval may connect with those in the nearest subdivision.

(10) Where a tract of land is proposed for subdivision and is part of a larger logical subdivision unit in relation to the City as a whole, the Commission may require to have prepared a proposed plan of the entire area, such plan to be used by the Commission and the Council as an aid in further judging the proposed plat.

(11) The existing zoning classification and proposed uses of land within the proposed subdivision.

(12) Written and signed statements explaining how and when the subdivider proposes to provide and install all required sewers or other disposal of sanitary wastes, pavement, sidewalks, and drainage structures, and other required improvements.

(13) Written and signed statements of the appropriate officials, obtained by the developer, of the availability of gas, electricity, and water to the proposed subdivision.

(14) Any restrictions proposed to be included in the owner's declaration of plat.

#### **38-204. Preliminary plat approval.**

The subdivider shall cause to be prepared a preliminary plat of any proposed subdivision and shall submit 11 copies of said preliminary plat to the Planning Commission for its study and approval. If the plat is prepared digitally, a copy of the disk shall also be submitted. The preliminary plat shall contain such information and date as is outlined herein. Further, it shall contain the following:

(1) In the case of subdivisions outside the corporate limits of the City, an additional six copies of the preliminary plat shall be submitted. The Commission shall thereafter refer two copies of said plat to the County Register of Deeds and the County Surveyor to insure an accurate property description and referral to the County Board of Commissioners.

(2) The Ogallala Planning & Zoning Administrator shall also examine the proposed plat in terms of its compliance with all laws and regulations of the City, the existing street system, and sound engineering practices, and shall, within 15 days, submit his or her findings to the Commission.

(3) The Commission, upon receiving the Ogallala Planning & Zoning Administrator's report, shall conclude its study of the preliminary plat, within a reasonable time thereafter. The preliminary plat shall be declared void five years after the date of original approval.

(4) Upon approval of the preliminary plat by the Commission, the subdivider may proceed with the preparation of the final plat and detailed construction drawings and specifications for the improvements required under these regulations.

(5) Approval of the preliminary plat by the Commission is revocable and does not constitute final plat approval of the subdivision by the Council or its authorization to proceed on construction of improvements within the subdivision.

(6) Preliminary approval will not be required for minor subdivisions containing three lots or less.

**38-205. Improvement plans and approval.**

Before the final plat of any subdivided area shall be accepted by the Commission and approved by the Council, the subdivider shall guarantee the construction of all improvements in accordance with approved plans and specifications and insure completion of the improvements within a specified time. Receipt of the signed copy of the preliminary plan by the Commission is authorization for the subdivider to proceed with the preparation of plans and specifications for the minimum improvements that will be required. Prior to the construction of any improvements, the subdivider shall furnish the Ogallala Planning & Zoning Administrator all such plans, information, and data necessary for the construction of said improvements. These plans shall be examined by the Ogallala Planning & Zoning Administrator and will be approved if in accordance with the necessary requirements. The Council will return the performance guarantee to the subdivider upon certification by the Ogallala Planning & Zoning Administrator of satisfactory completion of the installation and construction of the required improvements and acceptance of the required improvements by the Council or County Commissioners. Prior to this certification by the Ogallala Planning & Zoning Administrator, the subdivider shall also file with the Ogallala Planning & Zoning Administrator plans, profiles, and cross-sections of the required improvements as they have been built.

**38-206. Final plat contents.**

The final plat shall be legibly drawn at a scale of one inch to 200 feet or less, and in ink on a suitable permanent base as specified by the County Register of Deeds . The final plat shall include, show, or be accompanied by the following information:

- (1) The title under which the subdivision is to be recorded.
- (2) The names of the owners and subdividers.
- (3) A date, scale, and North point, the basis of bearings, and a key map showing the general location of the proposed subdivision.
- (4) The legal description of the area being platted in metes and bounds, by bearing and distance.
- (5) Accurate distances and bearings of all boundary block and lot lines of the subdivision including all sections and U.S. Survey and Congressional township lines.
- (6) Centerlines of all proposed and adjoining streets with their right-of-way width and names.
- (7) Lines of all blocks and lots with systematic method of numbering to identify all lots and blocks. The lots shall be designated by numbers.
- (8) All building setback lines and all easements provided for public service, together with their dimensions and any limitations of the easements.
- (9) Any and all dimensions necessary for accurate location of the boundaries of the site to be developed and of all streets, alleys, lots, easements, and dedicated areas. These dimensions shall be expressed in feet and decimals. The streets, avenues and other grounds shall be designated by names or numbers.
- (10) All radii, arcs, points of tangency, central angles, and lengths of curves.
- (11) All survey monuments and benchmarks, found or set, together with their

physical description.

(12) Certification by a surveyor licensed with the State of Nebraska certifying that he or she has accurately surveyed the addition and that the lots, blocks, streets, avenues, alleys, parks, commons and other grounds are well and accurately staked off and marked and that the monuments shown, found, or set are in the positions indicated, and that all necessary information is correctly shown thereon.

(13) The accurate outline, dimensions, and purposes of all property which is offered for dedication or is to be reserved for acquisition for public use, or is to be reserved by deed or covenant for the common use of the property owners in the subdivision.

(14) An affidavit of ownership showing fee simple title and encumbrances and liens, and a certificate of dedication of all land intended for public use, signed by the owner or owners and all other parties who have a mortgage or lien interest in the property.

(15) Private restrictive covenants and their period of existence.

(16) Receipts showing that all taxes are paid.

(17) A certification of approval by the Health Officer of the City, county, or state (whichever is applicable) where public water and public sewer are not available.

(18) Construction drawings, profiles, cross-sections, and specifications subject to certification and approval of the Ogallala Planning & Zoning Administrator.

(19) A waiver of claim for damages occasioned by the establishment of grades or the alternation of any portion of the land surface to conform to the grades so specified by the Ogallala Planning & Zoning Administrator.

(20) The estimated cost of all improvements for determination of the amount of the performance bond shall be made by the subdivider's engineer and shall be subject to review, approval, and certification by the Ogallala Planning & Zoning Administrator.

(21) Signature spaces for approval of the Commission Chairperson and Secretary and also the Ogallala Planning & Zoning Administrator and authorized representative of the Council.

(22) Such plat shall be acknowledged before some other officer authorized to take the acknowledgements of deeds

(23) When such map or plat is made out, acknowledged and certified, and has been approved by the City Council, the same shall be filed and recorded in the office of the County Clerk by the City of Ogallala at the expense of the Developer.

### **38-207. Final plat approval and acceptance.**

(1) Final plat approval.

(a) Prior to submitting the final plat to the Planning Commission for its approval, the subdivider shall furnish all data and information listed in this chapter which is necessary for a detailed engineering consideration of the improvements required. For final plat approval, the subdivider shall submit to the Commission:

(i) Nine copies of the final plat. If the plat is prepared digitally, a copy of the disk shall also be submitted.

(ii) A performance guarantee as required and approved by the Ogallala Planning & Zoning Administrator and City Attorney.

(iii) One copy of the original tracings and one copy of the certified approved plans, profiles, cross-sections, and specifications.

(iv) A certificate on the final plat, signed by the Ogallala Planning & Zoning

Administrator, that the final plat is substantially in accord with the preliminary plat as approved by the Commission.

(b) Where outside the City limits, but within the Planning Area, the County Board of Commissioners shall be given four weeks to officially comment on the appropriateness of the design and improvements proposed in the plat. At such time as the City exercises its control over an unincorporated area by adopting or amending subdivision regulations, its regulations shall supersede those of the county.

(c) The Planning Commission shall approve or disapprove the final plat in a reasonable time after the date of submission thereof to the Commission. Approval of the Commission shall be endorsed in writing on the final plat by a dated signature of the Chairperson and Secretary. Approval of the final plat by the Commission is revocable and does not constitute final approval or acceptance of the subdivision by the Council.

Historical reference: Am. Ord. 1070, passed 6-9-98

(2) Final plat acceptance. When the final plat has been passed favorably by the Commission, nine copies of the final plat shall forthwith be transmitted to the Council, together with a copy of the Commission's minutes showing the action of the Commission and the performance guarantee. The final plat submitted to the Council shall be approved or disapproved within a reasonable time after submission thereof. The grounds of disapproval of the final plat shall be stated upon the records of the Council. When the final plat has been approved by the Council and the performance guarantee accepted, the original plat tracing and one copy shall be recorded and filed with the office of the County Register of Deeds; one reproducible tracing and six copies shall be delivered to the Ogallala Planning & Zoning Administrator; and one copy to the City Clerk for the respective City files. It shall be the responsibility of the Ogallala Zoning Administrator to record the plat with the County Register of Deeds after approval of the plat at the expense of the Developer. Approval of the final plat by the Council shall not be deemed to constitute or effect an immediate acceptance by the City of any dedication of any street or other public grounds shown on the final plat. Such acceptance shall be made only upon inspection as provided in 38-403. Receipt of the duly certified final plat by the subdivider is authorization that he may proceed with the installation and construction of the required improvements. No building permit shall be issued for the subdivision and no lots shall be sold prior to the subdivider's receipt of said acceptance, unless with the written approval authorized by the Council.

Statutory reference: Neb RS 19-901 et seq

**38-208. Final plat distribution.**

Upon receipt of the duly certified copies of the final plat, the Ogallala Planning & Zoning Administrator shall transmit copies of the plat, upon which have been placed the official lot and block numbers as determined by his or her office, to the local public utility companies.

**38-209. Restrictive covenants.**

Where any restrictive covenants are anticipated in a proposed subdivision which

do not assist orderly, efficient, and integrated development; promote the public health, safety, and general welfare of the community; and ensure conformance of the subdivision plans with the capital improvements program, Comprehensive Plan, or Major Street Plan, the Council may deem these grounds for disapproval of the subdivision plat.

**38-210. Fees and fee exemptions.**

(1) Fees. The Ogallala Planning & Zoning Administrator shall calculate the administrative fees and recording fees for each application, and said fees shall be payable in advance of plat processing to the City Clerk. Additionally, the subdivider shall pay to the City Clerk a fee to pay the total cost of consulting, review, and engineering of the improvements. All administrative fees shall be set by resolution of the Council, a copy of which shall be kept available for public inspection in the office of the City Clerk.

(2) Fee exemptions. No administrative fees shall be charged for any of the following:

- (a) Public land plats submitted by any governmental department of the City.
- (b) Plats submitted by the Board of Education.
- (c) Plats of property reserving or dedicating land to the City; provided, no other subdivision of land is shown thereon.

**ARTICLE 3  
DESIGN STANDARDS**

Section.	
38-301.	Acreage subdivisions.
38-302.	Alleys.
38-303.	Blocks.
38-304.	Curbs and gutters.
38-305.	Drainage.
38-306.	Driveways.
38-307.	Easements.
38-308.	Lights.
38-309.	Lot access.
38-310.	Lot arrangement and design.
38-311.	Lot dimensions.
38-312.	Marginal access streets.
38-313.	Private streets and reserve strips.
38-314.	Schools, parks, and playgrounds.
38-315.	Sewer mains.
38-316.	Sidewalks.
38-317.	Street curves.
38-318.	Street dedication requirements.
38-319.	Street extension.
38-320.	Street grades, widths, and elevations.
38-321.	Street intersections.
38-322.	Street jogs, cul-de-sacs, and half-streets.
38-323.	Street location and right-of-way widths.

- 38-324. Street name signs.
- 38-325. Street names.
- 38-326. Street surfacing.
- 38-327. Street system generally.
- 38-328. Unsuitable land.
- 38-329. Utilities.
- 38-330. Water mains.

**38-301. Acreage subdivisions.**

Where the parcel of land is subdivided into larger tracts than ordinarily used for building lots, such parcel shall be divided as to allow for the opening of major streets and the ultimate extension of adjacent collector and local streets.

**38-302. Alleys.**

The minimum right-of-way width of an alley in a residential block, when required because of unusual conditions, shall be 20 feet. A ten-foot cut-off shall be made at all acute and right angle alley intersections. Dead-end alleys shall be prohibited. Where alleys are not provided, easements of not less than ten feet in width shall be provided on each side of all rear lot lines and side lot lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, or other utilities.

**38-303. Blocks.**

Residential blocks shall not be less than 300 feet nor more than 1,200 feet in length, except as the Council considers necessary to secure efficient use of land or to achieve desired features of the street system. In blocks over 800 feet long, the Council may require public crosswalks at locations other than the intersections. Such crosswalks shall have a minimum easement width of ten feet. Residential blocks shall be deep enough to provide two tiers of lots of at least minimum depth, except where prevented by topographical conditions or size of the property, in which case the Commission may recommend to the Council a single tier of lots of at least minimum depth. Blocks for commercial use should generally not exceed 500 feet.

**38-304. Curbs and gutters.**

Curb and gutter shall be provided as required by the Ogallala Planning & Zoning Administrator. In areas of notable flash flooding or heavy rain run-off, curbs shall be required on all streets designated for areas where the existing or anticipated residential density of the areas surrounding the proposed subdivision equals or exceeds three dwelling units per net acre. In commercial developments, or where other similar intensive urban uses exist or are anticipated, curbs shall be required. Where curbs exist on abutting properties, their extension shall be required throughout the proposed subdivision. All curb and gutter shall be constructed in conformance with the minimum standards of the City and as approved by the Ogallala Planning & Zoning Administrator.

**38-305. Drainage.**

Grading shall be designed so that all surface water shall be conducted to a street storm sewer or to a natural watercourse. No watercourse shall be altered so as to divert

surface drainage from one watershed to another. No obstruction shall be permitted in natural watercourses unless said obstruction meets with the approval of the Ogallala Planning & Zoning Administrator. The development of areas subject to periodic flooding, poor drainage, or other unsuitable physical conditions is prohibited unless rendered suitable by satisfactory improvements.

**38-306. Driveways.**

Driveways shall have a maximum grade of 10%. Driveways and curb cuts shall be located not less than three feet from the side lot lines. Curb cuts for straight curbs and the flare for rolled curbs shall be three feet wider than the driveway pavement on each side.

**38-307. Easements.**

Where there are no streets or alleys, easements of at least ten feet in width shall be provided on each side of all rear lot lines and along side lot lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, or other utilities. An adequate easement as approved by the Ogallala Planning & Zoning Administrator may be dedicated along well-defined watercourses for the purpose of widening, sloping, improving, deepening, or protecting the stream for future drainage or recreational purposes.

**38-308. Lights.**

The street lights shall be installed by the City. Such lights shall be located at each street and walkway entrance to the subdivision. In addition, whenever the distance between two adjacent street or walkway lights would exceed 300 feet, then additional street lights shall be installed in such manner that proper light intensity shall be provided and maintained. New subdivision street and walkway lighting may be installed with all associated wiring underground or overhead, as required by the City.

**38-309. Lot access.**

Every lot within a subdivision shall front on a publicly dedicated street.

**38-310. Lot arrangement and design.**

The lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites properly related to topography, drainage, sanitation, and the character of adjacent development. Insofar as practical, side lot lines shall be perpendicular or radial to street right-of-way lines.

**38-311. Lot dimensions.**

The minimum dimensions for lots shall conform to the zoning regulations unless the Council, for special reasons, including absence of utilities, approves otherwise. The following shall apply solely to subdivisions:

(1) The size, shape, and orientation of every lot shall be subject to approval of the Council for the type of development and use contemplated. No lot shall be more than four times as deep as it is wide, nor shall any lot average less than 100 feet deep.

(2) Lot widths shall be measured at the minimum building setback line.

(3) Lots shall have a minimum street frontage in accordance with the zoning regulations.

(4) Corner lots shall be at least 15 feet wider than the minimum lot width, as cited in the zoning regulations, in order to allow for side street building setback lines.

(5) Double frontage lots shall be prohibited except that the Council may approve said double frontage lots where it is essential to provide separation of residential development from major traffic streets or to overcome specific disadvantages of topography.

(a) Building setback lines shall be established on both frontages.

(b) A ten-foot buffer easement may be provided along the lot lines of lots abutting such major street or disadvantageous use and there shall be no right of access across said buffer easement, thus eliminating traffic conflict onto major streets.

(6) Building setback lines shall be shown on all lots intended for residential, commercial, and industrial uses. Such building lines shall not be less than the requirements of the applicable district in the zoning regulations.

(7) The size, shape, and arrangement of commercial and industrial lots, where platted, shall be subject to the approval of the Council.

**38-312. Marginal access streets.**

(1) Where a subdivision abuts or contains an existing or proposed arterial street, the City may require access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(2) Where the proposed subdivision abuts upon or contains an existing or proposed arterial street or highway on which traffic volumes and vehicular speeds warrant special safety considerations, the City may require that marginal access streets be provided in order that no lots front on such existing or proposed arterial street or highway.

(3) Where a subdivision borders on or contains a railway right-of-way or limited access highway right-of-way, the City may require a street approximately parallel to and on intervening land, as for park purposes in residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

**38-313. Private streets and reserve strips.**

There shall be no private streets platted within a subdivision. There shall be no reserve strips in a subdivision except where their control is definitely vested in the City or county under conditions approved by the Council as authorized herein.

**38-314. Schools, parks, and playgrounds.**

(1) In subdividing property, consideration shall be given to suitable sites for schools, parks, playgrounds, and other common areas for public use so as to best conform with recommendations of the Comprehensive Plan. Any provisions for schools, parks, and playgrounds should be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be provided or acquired by an appropriate agency.



(2) Dedication or reservation of land for schools or parks should be required in all major subdivisions, with the location of such lands as preferably recommended by the School-Park Plan, an element of the Comprehensive Plan for the City. Further:

(a) A minimum of 5% of the net area of subdivisions ten acres or over shall be dedicated for public parks or playgrounds or such dedicated land may be developed and used by residents within the subdivision on a cooperative basis, or a civic, non-profit group.

(b) Public open spaces shall, wherever possible, be located contiguous to other such areas in adjacent subdivisions, in order to provide for the maximum use of the resultant area, and such gross area shall be shown on the preliminary plat. The Council may not approve a site which is undesirable for such public or civic use.

(c) If the Comprehensive Plan required a public open space larger than 5% of the net area of the proposed subdivision, the subdivider shall reserve the area in excess of the 5% dedication requirement for purchase by the appropriate public agency within one year from the endorsement date of the final plat, but may thereafter replat such acreage to his or her own purposes.

(d) Natural features, historic sites, and similar community assets shall be preserved.

(e) Any such dedicated or reserved land to be used by the general public may be improved or developed by the City or county, whichever is applicable, in accordance with a duly-adopted annual improvement program or through a tax benefit district, which may require special assessment from the adjacent individual property owners.

**38-315. Sewer mains.**

The location, size, and design of sewer mains shall conform to the Major Sewer Plan as adopted by the Council upon the recommendation of the Planning Commission and Ogallala Planning & Zoning Administrator, the Recommended Standards of Sewage Works, a report of the Committee of the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers, and the Nebraska Department of Environmental Control Guidelines, including all subsequent amendments or additions to the aforementioned.

**38-316. Sidewalks.**

Sidewalks shall be provided as required by City ordinances and shall be constructed of Portland cement concrete or other acceptable materials as approved by the City Council. Sidewalk thickness shall be not less than four inches and sidewalk width not less than four feet.

**38-317. Street curves.**

A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets. Where there is a deflection angle of more than 10° in the alignment of a street, a curve with a radius adequate to insure safe sight distance shall be made. The minimum radii of curves provided shall be required. Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance to 200 feet, said sight distance being measured from a driver's eyes, which are assumed to be 4-1/2 feet above the pavement surface, to an object four inches high on the pavement. Profiles of all streets showing natural or finished grades, drawn to an

approved scale, may be required by the City.

**38-318. Street dedication requirements.**

(1) The dedication width of rights-of-way for new streets measured from lot line to lot line shall be in conformance with 38-320. All streets classified as arterial streets by the Comprehensive Plan shall have all points of access approved by the City Council. Marginal access streets may be required by the City Council for subdivisions fronting on arterial streets.

(2) Subdivisions platted along existing streets shall dedicate additional right-of-way if necessary to meet the minimum street width requirements set forth in this subchapter. The entire minimum right-of-way width shall be dedicated where the subdivision is on both sides of an existing street. When the subdivision is located on only one side of an existing street, one-half of the required right-of-way width, measured from the centerline of the existing roadway, shall be dedicated. Dedication of one-half of the right-of-way for proposed streets along the boundaries of land proposed for subdivision shall be prohibited.

**38-319. Street extension.**

The street layout of the proposed subdivision shall provide for the continuation of appropriate projection of streets and alleys already existing in areas being subdivided. Where, at the determination of the City Council, it is desirable to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of such properties. Where the City Council deems it necessary, such dead-end streets shall be provided with a temporary turnaround having a radius of at least 60 feet. The street system for the proposed subdivision shall provide for extending existing streets at the same or greater width, but in no case shall a street extension be of less width than the minimum width required in these regulations for a street in its category.

**38-320. Street grades, widths, and elevations.**

(1) Street grades and elevations. All streets shall be designed so as to provide for the discharge of surface water from the pavement and from the right-of-way by grading and drainage. For adequate drainage, the minimum street grade shall not be less than 0.5%. The City shall not approve streets which will be subject to inundation or flooding. All streets must be located at elevations which will make them flood-free in order that portions of the subdivision will not be isolated by floods. Where flood conditions exist, the City shall require profiles or elevations of streets in order to determine the viability of permitting the proposed subdivision activity. Fill may be used in areas subject to flooding in order to provide flood-free streets if such fill does not increase flood heights. Drainage openings shall be designed so as not to restrict the flow of water and thereby increase flood height.

(2) Widths and grades. Right-of-way, pavement widths, and grades shall be as set forth in the table below

Street Classification	Minimum Right-of-Way (ft.)	Minimum Pavement Width (ft.)	Maximum Grade (%)
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Arterial	100	44	7
Collector	66	44	7
Local	66	44*	10
Cul-de-sac and Loop	61' Radius	44, 50' Radius	10
Marginal Access (Frontage Road No Parking)	66	36	10
Alleys	20	12	10

\* Provided on-street parking is allowed only on both sides of the street; 32' required if parking is allowed on only one side of the street.

(3) Grading specifications. All streets, roads, and alleys shall be graded to their full widths by the subdivider, so that street pavements and sidewalks can be constructed on the same level plane. Deviation from this standard due to special topographical conditions will be allowed only with the approval of the City Council. Before grading is started, the entire right-of-way area shall be first cleared of all tree stumps, roots, brush, and other objectionable materials and of all trees not intended for preservation. The subgrade shall be properly shaped, rolled, and uniformly compacted to conform with the accepted cross-section and grades. In cuts and fills, all tree stumps, boulders, organic material, soft clay, spongy material, and other objectionable materials shall be removed to a depth of at least two feet below the graded surface. This objectionable matter, as well as similar matter from cuts, shall be removed from the right-of-way area and disposed of in such a manner that it will not become incorporated in fills or hinder operation of the drainage system.

(4) Minimum pavement widths. Pavement widths shall be measured between curb faces.

**38-321. Street intersections.**

Streets shall intersect as nearly as possible at an angle of 90°, and no intersection shall be any angle of less than 60°. Street curb intersections shall be rounded by radii of at least 20 feet. When the smallest angle of street intersection is less than 75°, the City Council may require curb radii of greater length. Wherever necessary to permit the construction of a curb having a desirable radius without reducing the sidewalk at a street corner to less than normal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such curb construction. No lot or parcel of land which abuts on and has access to either a collector or a minor arterial street shall have a service drive, curb cut, or other means of access to an arterial street within 50 feet of the right-of-way of any street which intersects an arterial street on the side on which such lot or parcel is located.

**38-322. Street jogs, cul-de-sacs, and half-streets.**

(1) Street jogs with centerline offsets of less than 125 feet shall be prohibited. Cul-de-sacs, minor terminal or dead-end streets, or courts which are designed so as to have

one end permanently closed shall not be longer than 500 feet and shall be provided at the closed end with a turnaround having a radius at the outside of the right-of-way of at least 61 feet.

(2) No dedication of a half-street will be permitted unless by special approval of the Council. If said special approval is granted, the dedicated half-street shall not be less than one-half of the minimum right-of-way width and whenever subdivided property adjoins a half-street, the remainder of the street shall be dedicated. No dead-end streets shall be approved unless said streets are provided to connect with future streets in adjacent land and are dedicated to the City. Cul-de-sacs may be permitted where the form or contour of the land makes it difficult to plat with connected streets. Cul-de-sacs shall provide proper access to all lots, shall not exceed 500 feet in length, and shall be terminated with a turnaround having a minimum right-of-way radius of 61 feet

**38-323. Street location and right-of-way widths.**

The location and right-of-way widths for streets shall conform to the Future Circulation Plan and to all subsequent amendments or additions thereto, as adopted by the Council and approved by the Commission and Ogallala Planning & Zoning Administrator. To the degree possible depending on individual circumstances, acceptance of proposed plats shall include rights-of-way dedications or supplemental rights-of-way dedications which will adhere to the standards herein.

**38-324. Street name signs.**

Street name signs, of a type in use throughout the City, shall be erected by the subdivider at all intersections.

**38-325. Street names.**

Proposed streets which are in alignment with other already existing and named streets shall bear the names of such existing streets. The name of a proposed street which is not in alignment with an existing street shall not duplicate the name of any existing street, irrespective of the use of the suffix: street, avenue, boulevard, drive, place, court, lane, road, pike, highway, parkway, or similar suffix. Wherever a street alignment changes direction more than 45° without a return to the original alignment within a distance of 500 feet, then the name of the street shall be changed at the point of curvature. Whenever a cul-de-sac street serves not more than three lots, the name of the intersecting street shall apply to the cul-de-sac. To avoid duplication and confusion, the proposed names of all streets shall be approved by the designated Ogallala Planning & Zoning Administrator prior to such names being assigned or used.

**38-326. Street surfacing.**

The streets in the proposed subdivision shall be paved and shall be provided by the developer or by special arrangements by the City Council, to include curbs and gutters, and street surfacing shall be of concrete or any other suitable surface as recommended by the designated Ogallala Planning & Zoning Administrator and approved by the City Council. Requirements for paving, including curb and gutter, may be waived at the request of the subdivider. Streets in such subdivision shall have a crushed rock or gravel subsurface which meets the specifications of the City.

**38-327. Street system generally.**

(1) Unless otherwise approved by the Commission and Council, provision must be made for the extension of major and collector streets as shown on the Future Circulation Plan of the City and local streets must provide free circulation within the subdivision.

(2) The system of streets designated for the subdivision, except in unusual cases, must align with streets already dedicated in adjacent subdivisions, and where no adjacent connections are platted, must in general be the reasonable projection of streets in the nearest subdivisions, and must be continued to the boundaries of the tract subdivided, so that other subdivisions may connect herewith.

(3) Rights-of-way providing for the future opening and extension of such streets as outlined herein may, at the discretion of the Commission, be made a requirement of the plat.

(4) Off-center street intersections will not be approved except in unusual cases.

(5) In general, streets shall be of a width at least as great as that of the streets so continued or projected.

(6) Local streets shall be arranged to discourage through traffic.

**38-328. Unsuitable land.**

Land subject to flooding, improper drainage, and erosion, or any land deemed to be topographically unsuitable for residential use, shall not be platted for residential occupancy, nor shall such land be platted for any other uses as may continue or increase the danger to health, safety, life, or property until steps are taken to diminish the above-mentioned hazards. Such land within a proposed subdivision not detrimental to the development of the subdivision shall be set aside for use not incompatible with this section.

**38-329. Utilities.**

(1) Electric service and telephone service shall be provided within each subdivision. Gas service may be required where reasonably accessible. Whenever such facilities are reasonably accessible and available, they may be required to be installed within the area prior to the approval of the final plat. Telephone, electric, street lighting, and communications conductors may be installed underground at the option of the City Council.

(2) Overhead secondary utility lines, where installed, shall be located at the rear of all lots.

(3) Whenever a sanitary sewer line and electric and/or telephone line is placed underground in the same utility easement, the following provisions shall be applicable:

(a) The total easement width shall not be less than 15 feet.

(b) The sanitary sewer line shall be installed within three feet of the easement, and the electric and/or telephone line shall be installed within three feet of the opposite side of the easement.

**38-330. Water mains.**

The location, size, and design of water mains shall conform to the Major Water Plan as adopted by the Council upon the recommendation of the Planning Commission

and Ogallala Planning & Zoning Administrator, the Recommended Standards for Water Works, a report of the Committee of the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers, and the State of Nebraska, Department of Environmental Engineering Recommended Standards, including all subsequent amendments or additions to the aforementioned.

#### **ARTICLE 4 IMPROVEMENTS**

Section.	
38-401.	Improvements required.
38-402.	Improvement construction and guarantees.
38-403.	Improvement acceptance.
38-404.	Drainage.
38-405.	Fire hydrants.
38-406.	Monuments.
38-407.	Restrictive covenants.
38-408.	Sewage disposal.
38-409.	Streets.
38-410.	Trees, shrubs, and other plantings.
38-411.	Utilities.
38-412.	Water supply.

**38-401. Improvements required.**

In addition to the improvements required in this subchapter, the Council or Board of County Commissioners may require the installation of other recommended improvements, constructed in accordance with standards and specifications as approved and adopted by each group.

**38-402. Improvement construction and guarantees.**

(1) Construction specifications. All related subdivision improvements herein shall also be constructed in accordance with the standards and specifications of the state, where applicable.

(2) Construction inspection. Inspection shall be required for sanitary sewerage systems, storm sewers, curbs, gutters, subgrade, pavement and sidewalks, and other improvements as required. The Ogallala Planning & Zoning Administrator or other appropriate official shall be the Inspector and be responsible for the inspections. The subdivider shall notify the Ogallala Planning & Zoning Administrator one week prior to the start of construction. Upon completion of the improvements, the subdivider shall notify the Inspector in writing pursuant to this subchapter.

(3) Construction guarantee. The subdivider shall provide one of the following guarantees for the completion of improvements subject to approval by the Council according to the following procedures:

(a) Subdivision bond. The subdivider shall post with the Council a bond or other security acceptable to the Council, equal to the Ogallala Planning & Zoning Administrator's approved estimate of the cost of construction, in favor of the Council,

guaranteeing satisfactory completion of all improvements whether within the City or the Planning Area, in a period not exceeding two years from the date of the bond. This bond is to be furnished by a reputable bonding company maintaining an office in this state, or other security acceptable to the Council.

(b) Cash bond. The subdivider shall deposit in cash with the Council an amount equal to the Ogallala Planning & Zoning Administrator's approved estimate of the cost of construction of all improvements. Progress payments may be made to the subdivider or his or her contractor as work progresses on the written order of the Ogallala Planning & Zoning Administrator.

(c) Special Assessments. In the case of partially dedicated streets, streets not wholly within the proposed subdivision, or streets where other adjacent property owners are involved, the subdivider may petition the Council or Board of County Commissioners to have the necessary improvements constructed and assessments levied against the property.

(d) Guarantee certificate. A final plat shall contain a guarantee by the subdivider that he or she will complete, at his or her own expense, all required improvements in accordance with approved plans and specifications within a period of two years after approval of the final plat.

**38-403. Improvement acceptance.**

The subdivider, upon completion of all the improvements, shall request in writing a final inspection by the Ogallala Planning & Zoning Administrator. The Inspector shall make a final inspection of all streets, utilities, and other improvements as required. The Council or Board of County Commissioners, whichever is applicable, may by resolution accept streets, easements, other public lands, sanitary sewerage facilities, and other improvements after receipt of a written notice of a satisfactory final inspection and the posting of a maintenance guarantee by the subdivider.

**38-404. Drainage.**

(1) Adequate provision shall be made for the drainage of storm water subject to the approval of the State Department of Health or County Health Officer, whichever is applicable. Storm sewers shall be installed prior to the installation of the street pavement. The Council or Board of County Commissioners may require the installation of storm sewer lines which are in excess of the subdivision design needs and mutually establish with the subdivider a prorated distribution cost to be shared by the City, county, or other persons and the subdivider. Where a natural watercourse intersects a street or bridge, a culvert shall be installed and constructed in accordance with the standards and specifications adopted by the Council. Driveway culverts shall be installed on major, collector, and local streets, shall have a minimum length of 20 feet, and shall be constructed in accordance with the standards and specifications adopted by the Council and Board of County Commissioners. Whenever drainage ditches are used, such ditches shall retain natural topographic characteristics and be so designed that they do not present a hazard to health, safety, life, or property. Drainage improvements shall maintain any natural water flow.

(2) An adequate storm drainage system may be required in accordance with either an existing system or the following table:

<b>Classification</b>	<b>Storm Drainage (Minimum Type)</b>
Parkway, expressway or freeway	Storm sewer*
Major street or highway	Storm sewer*
Collector street	Storm sewer
Local street	Open gutter

\* Subject to State of Nebraska Standards

**38-405. Fire hydrants.**

Fire hydrants shall be provided by the City in all subdivisions with public water supplies. The hydrants shall be located between property lines and curbs with all outlets facing or parallel to the street. Hydrants shall be placed at the corners of all blocks and mid-block for blocks exceeding 800 feet in length. Hydrants shall also be required at the entrance and end of all cul-de-sacs exceeding 400 feet in length. The type of hydrant and control valves and the location of the hydrant shall be approved by the Fire Chief. The minimum size of any water lines serving any hydrant shall not be less than six inches in diameter and they should be circulating water lines. The size and location of water lines shall be approved by the Ogallala Planning & Zoning Administrator and the Fire Chief.

**38-406. Monuments.**

All subdivision boundary corners, points of curvature, angles, and intersections of street centerlines shall be marked with permanent monuments subject to approval by the Ogallala Planning & Zoning Administrator or Board of County Commissioners. Monuments shall be of concrete at least four inches in diameter or square, three feet long, with a flat top. The top of the monument shall have an indented cross or metal pin to identify properly the location of the point and shall be set flush with the finished grade. All lot corners shall be marked with metal pins not less than one-half inch in diameter and 24 inches long and driven so as to be flush with the finished grade. Installation of monuments and pins shall be certified by a surveyor. Where circumstances prohibit the installation of monuments or pins at the time of filing the final plat, a written certification by the owner shall be included on the plat stating that no lot will be sold until monuments or pins are placed by a surveyor. A permanent benchmark shall be accessibly placed within the subdivision, the elevation of which shall be referred to the U.S.G.S. datum and accurately noted on the subdivision plat.

**38-407. Restrictive covenants.**

The subdivider may, at his or her own expense, restrict the use of such premises as are contained in a subdivision plat by means of restrictive covenants, provided that such restrictive covenants are reviewed by the Ogallala Planning & Zoning Administrator and approved by the Council or Board of County Commissioners. Any such covenants shall be included as deed restrictions on the final plat.

**38-408. Sewage disposal.**



Where a public sanitary sewer is within 500 feet of the subdivision and along an accessible easement or street right-of-way, the subdivider shall connect with said sewer and provide a connection to each lot. Such sanitary sewerage system shall be installed prior to the installation of the street pavement. The Council may require the installation of sanitary sewer lines which are in excess of the subdivision design needs and mutually establish with the subdivider a prorated distribution cost to be shared by the City or other persons and the subdivider. Where a public sanitary sewer is not accessible, each lot in the subdivision shall be serviced by either a disposal plant system or an on-site wastewater treatment system with proper provision for the maintenance thereof. Prior to submittal of a plat of a development area where an on-site wastewater treatment system is proposed on any lot less than three acres in size, the owner of the development area shall submit an application for subdivision review and receive approval by the Nebraska Department of Environmental Quality wastewater section for the use of on-site wastewater treatment systems for the development area. Where it is feasible and practical for an adequate on-site wastewater treatment system to be made available for every lot, the subdivider shall present evidence to this effect and include deed restrictions on the final plat requiring any such individual on-site wastewater treatment system to comply with the requirements of the Nebraska Department of Environmental Quality Wastewater Section.

**38-409. Streets.**

(1) Unapproved streets. The City or county shall not accept, lay out, open, improve, grade, pave, curb, or light any street, or lay or authorize water mains or sewers or connections to be laid in any street, within any portion of the Planning Area unless such street shall have been accepted or opened as, or shall otherwise have received the legal status of, a public street, unless it corresponds with a street shown on the Comprehensive Plan or with a street on a subdivision plat approved by the Council or otherwise acceptable to the Board of County Commissioners. However, the Council or Board of County Commissioners may accept any street not shown on or not corresponding with a street on the Comprehensive Plan or on any approved subdivision plat or an approved street plat; provided, the ultimate responsibility for maintenance of said street be accepted by the adopting governmental body according to subsequent capital improvements program of said body.

(2) Approved streets. Streets shall be constructed or reconstructed on approval of the respective level of government according to the following provisions:

(a) Street grading. Streets shall be graded to the full width of the right-of-way, and shall be filled, excavated, or constructed in accordance with specifications adopted by the Council and approved by the Ogallala Planning & Zoning Administrator.

(b) Roadway paving.

(i) Roadway surfacing widths shall be in conformance with the minimum standards as set forth in the Comprehensive Plan and Major Street Plan, subject to recommendation of the Ogallala Planning & Zoning Administrator and approval by the Council.

(ii) Streets not intended for paving shall have a minimum gravel surface thickness of not less than four inches.

(iii) Street or alley pavement intersections shall be rounded by an arc; the minimum radius shall be 20 feet or the shortest distance from pavement to the nearest property

line. Where streets meet at acute angles, the foregoing minimum radius shall be increased based on a review by the Ogallala Planning & Zoning Administrator.

(iv) The paved area in a cul-de-sac shall be constructed with a radius of not less than 50 feet measured to the face of the curb or to the edge of the pavement.

(v) Higher standards for the pavement of streets serving commercial and industrial areas may be required.

(c) Curbs. Curbs shall be required on all streets. A standard curb section or integral curb and gutter section shall be constructed in accordance with standards and specifications adopted by the Council.

(d) Gutters. Gutters shall be required on all streets. The standard gutter section shall be constructed in accordance with standards and specifications as adopted by the Council.

(3) Classification table.

<b>Classification</b>	<b>Pavement Type (Minimum)</b>
Parkway, express way, or freeway	Concrete*
Arterial street	Concrete or asphalt*
Collector street	Bituminous mat
Local street	Bituminous mat
Commercial frontage	Concrete

\* Subject also to State of Nebraska Standards.

**38-410. Trees, shrubs, and other plantings.**

Trees or shrubs may be planted within the street rights-of-way or utility or drainage easements, where approved by the Council or Board of County Commissioners. Plantings and fences at intersections shall be so located as to maintain adequate sight distance. A screen planting of not less than ten feet in width prohibiting vehicular access may be required at the rear of all double frontage lots and along expressways, freeways, and major streets. A planting plan of shrubs and trees for such screen planting shall be submitted for approval with the plat.

**38-411. Utilities.**

Other utilities to be installed in a street shall be located in the grass plat between the curb line or edge of pavement and the street right-of-way line. If stubs to the property lines are not installed, then connections between the lots and the utility lines shall be made without breaking into the wearing surface of the streets.

**38-412. Water supply.**

Where a public water supply is within 500 feet of a proposed subdivision and along an accessible easement or street right-of-way, the subdivider shall install or have installed a system of water mains and connect to said supply. A connection to each lot shall be installed prior to the paving of the street. The Council may require the installation of water mains which are in excess of the subdivision design need and mutually establish with the subdivider a prorated distribution cost to be shared by the City or other persons and the

subdivider. Where a public water supply is not available, each lot in a subdivision shall be furnished with a private water supply system with proper provisions for the maintenance thereof. The design of any such system shall be subject to the approval of the State Department of Health State Water Well Standards Program. Where it is feasible and practical for an adequate private water supply to be made available for every lot, the subdivider shall present evidence to this effect and include deed restrictions on the final plat requiring any such individual private water supply system to comply with the requirements of the State Department of Health State Water Well Standards Program.

## **ARTICLE 5 ADMINISTRATION AND ENFORCEMENT**

Section.

- 38-501. Filing approval for maps, plans, and plats required.
- 38-502. Municipal planning; additions; incorporation into municipality.
- 38-503. Unlawful structures.

### **38-501. Filing approval for maps, plans, and plats required.**

No map, plan, plat, or replat of any subdivision within the jurisdiction of this chapter shall be considered legally filed with the Register of Deeds for the County unless and until the same shall have been approved by the Council.

### **38-502. Municipal planning; additions; incorporation into municipality.**

All additions to the City laid out and previously located within the corporate boundaries of the City shall remain a part of the City. All additions laid out adjoining or contiguous to the corporate limits may be included within the corporate limits and become a part of the City for all purposes whatsoever at such time as the addition is approved as provided in Neb. RS 19-916. If the City Council includes the addition within the corporate limits, the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all the laws, ordinances, rules, and regulations of the City.

Statutory Reference: Neb. RS 19-916

### **38-503. Unlawful structures.**

(1) After the Council shall have adopted a Major Street Plan and filed said Plan with the Register of Deeds for the County, no building shall be erected on any lot within the Plan area which does not conform with the provisions of this chapter. Further, a building may not be located within the Planning Area unless and until the street which will serve as access to the lot is approved by the Council as a public street prior to the time of construction.

(2) Any building erected in violation of this section shall be deemed an unlawful structure and the Inspector or other appropriate official may bring action to enjoin such erection or cause it to be vacated or removed.

Statutory reference: Neb. RS 19-913

**ARTICLE 6  
PENALTY**

Section.  
38-601.           Penalty.

**38-601.           Penalty.**

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed \$1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than \$1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

(4) Whoever being the owner or agent of the owner of the land located within the platting jurisdiction of the municipality knowingly or with intent to defraud transfers, sells, agrees to sell, or negotiates to sell such land by reference to, exhibition of, or by other use of a subdivision of such land before such plat has been approved by the Council and recorded in the office of the Register of Deeds of the county shall pay a penalty of not more than \$1,000 for each lot so transferred, sold, or agreed or negotiated to be sold. The description by metes and bounds in the instrument or transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720, 19-913.

# CHAPTER 44

## ZONING REGULATIONS

Article.

1. General Provisions.
2. Districts Generally.
3. A-1 Agricultural District.
4. A-2 Agricultural Residential District.
5. C-1 Business District – Central.
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15. Standards and Regulations; Generally.
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### ARTICLE 1

#### GENERAL PROVISIONS

Section.

- 44-101. Purpose.
- 44-102. Jurisdiction.
- 44-103. Nonconforming land, structures, and uses.
- 44-104. Definitions.

**44-101. Purpose.**

The regulations for the zoning districts set forth in this chapter are made in accordance with a Comprehensive Plan for the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the community. They are designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, among other things, as to the character of each district and its peculiar suitability for particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

Statutory reference: Neb. RS 19-901

**44-102. Jurisdiction.**

The provisions of this chapter shall apply within the corporate limits of the City and within the territory beyond said corporate limits, as now or hereafter fixed, for a distance of two miles in all directions, as established on the two maps entitled "The Official Zoning Maps of the City of Ogallala, Nebraska," as the same may be amended by subsequent annexation. Said maps and amendments, and all explanatory matter accompanying them, are made a part of this chapter. Said maps shall be on file in the office of the City Clerk and a certified copy thereof shall be furnished to the County Assessor.

Statutory reference: Neb. RS 16-901

**44-103. Nonconforming land, structures, and uses.**

After November 8, 1967, land or structures or the uses of land or structures that would be prohibited under the regulations for the district in which they are located shall be considered nonconforming. It is the intent of this chapter to permit these nonconforming uses to continue, provided that they conform to the following provisions:

(1) The use of a building, structure, or land existing at the time of the adoption of a zoning regulation, or at the time of an amendment of a regulation, may, except as provided in this section, be continued, although such use does not conform with provisions of such regulation or amendment; and such use may be extended throughout the same building if no structural alteration of such building is proposed or made for the purpose of such extension. Except as provided above, no existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use; provided, that the City Council, 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 City Council may require appropriate conditions and safeguards in accord with the provisions herein.

(3) When a nonconforming use of a structure, or structure and premises in combination, is, in fact, discontinued or abandoned for 12 consecutive 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.

(4) No structure, or structure and premises in combination, devoted to a use not permitted by this chapter in the district in which it is located which has been damaged to the extent of more than 60% of its assessed fair market value immediately prior to damage, shall be rebuilt, altered, or repaired, except in conformity with the district regulations.

Statutory reference: Neb. RS 19-904.01

**44-104. Definitions.**

(1) Generally. For the purpose of interpreting this chapter, certain terms are herein defined. Except as defined herein, all other words used in this chapter shall have their customary dictionary meanings.

(2) Interpretation.

(a) Words used in the present tense include the future tense.

(b) Words used in the singular include the plural, and words used in the plural include the singular.

(c) The word shall is always mandatory.

(d) The word lot includes the word plot or parcel.

(e) The word building includes the word structure.

(f) The word used or occupied, as applied to any land or buildings, shall be construed to include the words intended, arranged, or designed to be used or occupied.

(g) The word maps or official zoning maps of Ogallala shall mean the "official zoning maps of the City of Ogallala, Nebraska" and the area comprising its two-mile extraterritorial zoning jurisdiction.

(3) Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) 100-Year Flood shall mean the condition of flooding having a 1% chance of annual occurrence.

(b) Alley shall mean a public or private thoroughfare which affords only a secondary means of access to abutting property.

(c) Apartment shall mean a part of a building consisting of a room or rooms intended, designed, or used as a residence by an individual or a single family; also known as a multi-family residence.

(d) Areas of Special Flood Hazard shall mean the land within a community subject to a 1% or greater chance of flooding in any given year. This land is identified as Zone A on the official map.

(e) Basement shall mean a portion of a building located partly or wholly below grade.

(f) Board shall mean the Board of Adjustment as provided in section 44-1801 et seq.

(g) Boarding House shall mean a residential establishment other than a hotel or motel where sleeping and eating accommodations are offered to the public on a non-transient basis.

(h) Borrow Pit shall mean any place or premises where dirt, soil, sand, gravel, or other material is removed below the grade of surrounding land for any purpose other than that necessary and incidental to site grading or building construction.

(i) Building shall mean a structure that is completely enclosed by a roof and by solid exterior walls along the outside faces of which an unbroken line can be traced for the complete circumference of the structure, which is permanently affixed to a lot or lots, and used or intended for the shelter, support, or enclosure of persons, animals, or property of any kind. The connection of two buildings by means of an open porch, breezeway, passageway, carport, or other such open structures, with or without a roof, shall not be deemed to make them one building.

(i) Accessory Building shall mean a subordinate building, the use of which is

customarily incidental to that of a principal building on the same lot.

(ii) Principal Building shall mean a structure which houses the principal use of the lot on which it is situated.

(j) Building Height shall mean the vertical distance to the highest point of a roof; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front lot line, or from the grade in all other cases.

(k) Comprehensive Plan shall mean the Comprehensive Plan for the City.

(l) 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.

(m) Dwelling:

(i) Model Home shall mean a structure used by a contractor for the purpose of displaying features of that particular home. A model home may have a business office that shall be used only for transacting business associated with selling homes built by that contractor. A model home shall not be used as a real estate office.

(ii) Multi-Family Dwelling shall mean a building used by or designed for three or more dwelling units, each independently containing cooking facilities.

(iii) Single-Family Dwelling shall mean a building having accommodations for one family.

(iv) Two-Family Dwelling shall mean a building having two dwelling units and also known as a duplex.

(n) Dwelling Unit shall mean a building, or portion thereof, providing complete and permanent living facilities for one family.

(o) Family shall mean one or more persons, related or unrelated, living together as a single housekeeping unit with or without domestic servants, caregivers, foster children, and supervisory personnel in a group living arrangement. The term family shall not include occupancy of a residence by persons living in fraternities, sororities, clubs, or transient or permanent commercial residential facilities catering to the general public. Also excluded are nursing and convalescent homes.

(p) Flood shall mean a temporary rise in a stream's flow or stage that results in water overflowing its banks and inundating areas adjacent to the channel or an unusual and rapid accumulation of runoff or surface waters from any source.

(q) Floodproofing shall mean any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(r) Floor Area shall mean the sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating buildings.

(s) Frontage shall mean the width of property between two side lot lines abutting the street and measured along the right-of-way line.

(t) Garage:

(i) Private Garage shall mean a building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a



commercial or public use.

(ii) Public Garage shall mean a garage other than a private garage.

(u) Home Occupation shall mean any occupation or activity carried on within a dwelling unit or accessory building by a member of the family residing on the premises which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character thereof. The regulations pertaining to home occupations can be found in section 44-1603.

(v) Improvements shall mean pavements, curbs, gutters, sidewalks, water mains, sanitary sewers, storm sewers, grading, street signs, plantings, and other items for the welfare of the property owners and the public.

(w) Junkyard shall mean a lot or parcel of land used for storage, keeping, or abandonment of junk (including scrap metal or vehicles or machinery or parts thereof) and necessary salvage operations related to the sale of parts or components.

(x) Lot shall mean a parcel of land defined by metes and bounds or boundary lines in a recorded deed fronting on a street. In determining lot area on boundary lines, no part thereof within the limits of the street, including right-of-way, shall be included.

(i) Corner lot shall mean a lot at the junction of and fronting on two or more intersecting streets.

(ii) Interior lot shall mean a lot other than a corner lot.

(iii) Through lot shall mean an interior lot having frontage on two parallel or approximately parallel streets and also known as a double fronted lot.

(y) Lot Depth shall mean the average horizontal distance between front and rear lot lines.

(z) Lot Lines shall mean the legal division between two lots.

(aa) Lot of record shall mean a lot which is a part of a plot, a map of which has been recorded in the office of the County Assessor.

(bb) Lot width shall mean the horizontal distance between side lot lines measured at the required front setback line.

(cc) Major Street Plan shall mean a plan adopted by the Commission for the guidance of alignment, function, and improvements of City streets, including modifications or refinements which may be made from time to time.

(dd) Mobile 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 to compliance with National Manufactured Home Construction and Safety Standards, 24 CFR 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Neb. RS 71-1557 bearing the seal of the Department of Health. In addition to this definition, manufactured homes located outside mobile home parks shall be subject to the conditions and protective restriction set forth in sections 44-1503 and 44-1705.

(ee) Mobile Home Park shall mean a parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy; provided, however, that any mobile home park that has not previously been licensed and permitted as a special exception by the City, prior to January 1, 2001, shall contain ten or

more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy. The term mobile home park shall not be construed to include mobile homes, buildings, tents, and other structures temporarily maintained by any individual, corporation, company, or other entity on its own premises and used exclusively to house its own labor force.

(ff) Performance Guarantee shall mean a corporate surety or cash deposit made out to the City in an amount equal to the full cost of the improvements which are required by these regulations, said cost being estimated by the City Engineer or his or her designee and said surety or cash deposit being legally sufficient to secure to the City that the said improvements will be constructed in accordance with these regulations.

(gg) Person shall mean an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, including any trustee, receiver, assignee, or other similar representative thereof.

(hh) Planning Area shall mean the City and two miles surrounding it in all directions.

(ii) Plat shall mean a map, drawing, or chart on which the subdivider's plan of the subdivision of land is presented and which he or she submits for approval and intends, in final form, to record.

(i) Final Plat shall mean a finished drawing showing completely and accurately all legal and engineering information and certification necessary for recording.

(ii) Preliminary Plat shall mean a drawing which shows the proposed layout of a subdivision in sufficient detail to indicate unquestionably its workability in all aspects (but not drafted in final form for recording) and the details of which are not completely computed.

(jj) Professional Office shall mean a use of a building that includes but is not limited to offices of accountants, architects, attorneys, auditors, bookkeepers, engineers, real estate and abstractors and financial planners.

(kk) Regulatory Flood Elevation shall mean the water surface elevation of the 100-year flood.

(ll) Right-of-Way shall mean a strip of land separating private property from the street or alley existing or dedicated in public ownership.

(mm) Shopping Center shall mean a group of retail business and service uses on a single site with common parking facilities.

(nn) Sign shall mean any advertisement, announcement, direction, or communication produced in whole or in part by the construction, erection, affixing, or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printing, letter printed, lettered, pictured, figured, or colored material on any building, structure, or surface. Signs placed or erected by governmental agencies for a public purpose in the public interest shall not be included herein, nor shall this include signs which are a part of the architectural design of a building.

(i) Billboard Sign 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.

(ii) Illuminated Sign shall mean a sign designed to give forth artificial light or through transparent translucent material from a source of light within such sign, including, but not limited to, neon and exposed lamp signs.

(iii) Off-Premises Sign shall mean any sign which is not an on-premises sign.

(iv) On-Premises Sign shall mean a sign located on the property which is being advertised, consisting solely of the name of the establishment and information which identifies the establishment's principal or accessory products or services offered on the property.

(v) Temporary Sign shall mean a freestanding sign advertising sale or rental of property not attached to the structure it serves, nor intended nor designed as a permanent fixture.

(oo) Story shall mean that portion of a building, other than a basement, included between a floor and the floor next above it.

(pp) Street shall mean a public or private thoroughfare which is used, or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform.

(i) Collector Street shall mean a street which carries traffic from a local street to a major street and is so designated on the major street plan for the City.

(ii) Commercial Frontage Street shall mean a street located in a nonresidential district which is approximately parallel to and adjacent to or part of a controlled access street and provides access to the abutting properties on one side only and protection from through traffic, and is so designated on the major street plan for the City.

(iii) Dead-End Street shall mean a short street having one end opened to vehicular traffic and the other end terminated, but not with a vehicular turnaround.

(iv) Local Street shall mean a street which is used primarily for access to abutting properties.

(v) Major Street shall mean a street of considerable continuity connecting various sections of the City, and is so designated on the major street plan for the City.

(qq) Street Right-of-Way Line shall mean a line separating private property from the street or alley existing or dedicated in public ownership.

(rr) Structure shall mean anything constructed or erected, including a building which has permanent foundations on the ground, or anything attached to something having a permanent location on the ground.

(ss) Subdivider shall mean any person, firm, or corporation undertaking the subdivision or resubdivision of a tract or parcel of land for the purpose of laying out a platted addition or subdivision of land.

(tt) Subdivision shall mean the division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll prior to November 8, 1967, into two or more parcels, sites, or lots for the purpose, whether immediate or future, of transfer of ownership; the improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening, or extension of any street or streets, except private streets; or, the division or allocation of land as open spaces for common use by owners, occupants, or lease holders, or as easements for the extension and maintenance of public sewer, water, storm drainage, or other public facilities; provided, however, that any division of land for agricultural purposes into lots or parcels of ten acres or more shall not be deemed a subdivision unless street dedications, easements, improvements, or other public facilities are involved. This definition shall be held to include resubdivision and, when appropriate to the context, relate to the process of subdividing or to the land or territory

subdivided.

(i) Major Subdivision shall mean any subdivision other than a minor subdivision.

(ii) Minor Subdivision shall mean a subdivision in which no land is dedicated for street purposes other than street widening.

(uu) Substantial Improvement shall mean any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure, either before the improvement is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition Substantial Improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences whether or not that alteration affects the external dimension of the structure. The term does not, however, include any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations as well as structures listed in national or state registers of historic places.

(vv) Townhouse shall mean a dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above or below any other dwelling unit.

(ww) Townhouse Ownership shall mean ownership of a townhouse is allowed whereby the title of each unit of occupancy, and the real estate on which the unit resides, is held in separate ownership. The minimal ownership shall be the unit and footprint of property on which the unit occupies. The maximum ownership shall be the unit and any area of land which shall reflect the property if the common wall was extended to serve as a property line.

(xx) Townhouse Structure shall mean a building formed by at least two townhouses and not more than twelve contiguous townhouses with common walls. For the purpose of the side yard regulations, the structure containing a group of townhouses shall be considered as one building occupying a single lot.

(yy) Common Wall shall mean a wall between two adjacent dwelling units in a Townhouse Structure extending from the foundation through the roof without openings.

(zz) Trailer shall mean any vehicle used or so constructed as to permit its use as a conveyance upon the public streets or highways and duly licensed as such. Trailer shall include self-propelled and non-self-propelled vehicles, and those designed, constructed, reconstructed, or added to by means of an enclosed addition or room in such manner as will permit the occupancy there of as a dwelling unit.

(aaa) Truck Terminal shall mean a commercial facility where truck freight is stored, handled, and dispatched between various locations by way of different major truck carriers and including facilities for the storage and repair of trucks and trailers while awaiting consignment.

(bbb) Use shall mean any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or structure or on a tract of land.

(ccc) Yard:

(i) Required Yard shall mean the minimum open space between the property line and the yard line. The required yard shall contain no building or structure other than the projection of the usual steps, unenclosed balconies, or open porches.

(ii) Front Yard shall mean any open space from the front line of the building to the street right-of-way line. There shall be a required front yard on each side of a corner lot.

(iii) Rear Yard shall mean the open space between the rear line of the lot (the line which is opposite the addressed street) and the rear line of the main building.

(iv) Side Yard shall mean an open, unoccupied space between the closest portion of the building to the side line of the lot. There shall be only one required side yard on a corner lot.

## **ARTICLE 2 DISTRICTS GENERALLY**

Section.

- 44-201. District classifications.
- 44-202. District boundaries; zoning maps.
- 44-203. District boundary interpretation.

### **44-201. District classifications.**

For the purpose of this chapter, the City is hereby divided into 12 districts, designated as follows:

- (1) Agricultural District (A-1)
- (2) Agricultural Residential (A-2)
- (3) Business District – Central (C-1)
- (4) Business District – Highway (C-2)
- (5) Business District – Neighborhood (C-3)
- (6) Business District – Interstate Highway (C-4)
- (7) Historical District (H-1)
- (8) Industrial District (I-1)
- (9) Residential District – Low Density (R-1)
- (10) Residential District – Low Density Special (R-1S)
- (11) Residential District – Medium Density (R-2)
- (12) Residential District – High Density (R-3)

### **44-202. District boundaries; zoning maps.**

The boundaries of the districts are hereby established as shown on the maps entitled “Official Zoning Maps of the City of Ogallala, Nebraska.” Said maps and all explanatory matter are hereby made a part of this chapter as if fully written herein.

Statutory reference: Neb. RS 19-904

### **44-203. District boundary interpretation.**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

- (1) Where district boundaries are indicated as approximately following the centerlines of streets, highways, streams or rivers, street or railroad right-of-way lines or said lines extended, such lines shall be construed to be the boundaries.
- (2) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- (3) Where district boundaries are so indicated that they are approximately parallel

to the centerlines of streets, highways, railroads, or reservoirs, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning maps. If no distance is given, such dimension shall be determined by use of the scale shown on said zoning maps.

(4) Where a district boundary line divides a lot in single ownership, the district boundary lines shall be determined by the use of the scale or dimensions shown on the zoning maps.

(5) Where physical or cultural features existing on the ground are in variance with those shown on the zoning maps, or in other circumstances not covered previously in this section, the Board of Adjustment shall interpret the district boundaries.

Statutory reference: Neb. RS 19-904

### **ARTICLE 3 A-1 AGRICULTURAL DISTRICT**

Section.

- |         |                                      |
|---------|--------------------------------------|
| 44-301. | Purpose and characteristics.         |
| 44-302. | Permitted uses.                      |
| 44-303. | Special uses.                        |
| 44-304. | Area, yard, and height requirements. |

**44-301. Purpose and characteristics.**

The purpose of the (A-1) Agricultural District is to fix the location of predominantly agricultural sections of the Planning Area, to annotate those land uses which are agricultural or basically related to agriculture, and to further record those land uses deemed compatible with agriculture or with an agricultural area in transition to an area of more urban character.

**44-302. Permitted uses.**

Within the (A-1) Agricultural District, a building or premises shall be used only for the following purposes:

- (1) Agricultural uses, farming, livestock raising, greenhouses, truck gardens, and other agricultural activities commonly required for the operation of a farm or ranch.
- (2) Single-family dwellings.
- (3) Customary incidental home occupations in accordance with the provisions set forth in section 44-1603.
- (4) Manufactured homes which comply with the provisions of section 44-1705.
- (5) Public uses including, but not limited to, public parks, playgrounds, trails, golf courses, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems.
- (6) Accessory bridges, structures, or uses subordinate and customarily incident to and located on the same lot with any of the foregoing principal uses.
- (7) Major off-street parking facilities in conjunction with all uses in the foregoing listing.
- (8) Portable storage structures subject to the conditions and protective restriction

set forth in Section 44-1713:

(8 9) Signs. The following on-premises signs shall be permitted, so long as they do not exceed 35 feet in height:

(a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:

- (i) One single freestanding sign with a maximum area of 90 square feet;
- (ii) One single sign, attached to the facade of the building, occupying no more than 10% of the surface area of said facade; or
- (iii) One single billboard-type sign, 24 square feet in area, for use in advertising products or services considered incidental to the primary use of the building or premises, attached to and parallel with the facade of the building.

(b) One temporary on-site, non-illuminated sign, not to exceed 32 square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to the specifications of section 44-1708.

#### **44-303. Special uses.**

The City Council may authorize the following special uses in the (A-1) Agricultural District, but only after receiving the recommendation of the Planning Commission, after a public hearing, and subject to the conditions and protective restrictions set forth in section 44-1503:

- (1) Mobile homes, which meet the definition of section 26-101.
- (2) Churches, Sunday schools, and other places of worship;
- (3) Private clubs, private lodges, private social recreational areas and entertainment facilities or grounds for games, sports, and camping;
- (4) Cemeteries;
- (5) Airports, airplane landing fields, radio or television transmitter stations, gas, electricity, or other necessary utilities;
- (6) Automotive wrecking, salvage, junk yards and establishments or use areas conducting vehicle maintenance or storage activities of a heavier nature than gasoline service stations or general vehicle garage repair provided that such establishments or use areas are enclosed by a solid fence or vegetative screening of at least 8 feet in height, and is not located closer than one-half mile to any residential district, incorporated area or dwelling other than the dwelling of the lessee or owner of the site;
- (7) Mental institutions and places of detention;
- (8) Additional single-family dwelling unit which provides housing for relatives by blood and marriage or farm workers;
- (9) Livestock feed lots and sale barns, kennels and veterinary establishments, but not nearer than 1,000 feet to any zoned residential district, incorporated area or dwelling other than the dwelling of the lessee or owner of the site;
- (10) Mining of sand and gravel or creation of borrow pits;
- (11) Recycling facilities as provided for in Chapter 34 of this code.
- (12) Collection and composting of yard waste.
- (13) Commercial rental storage facilities that allow outside storage of licensed

vehicles and utility trailers.

**44-304. Area, yard, and height requirements.**

Area, yard, and height requirements for the (A-1) Agricultural District shall be the following:

- (1) Minimum lot size shall be three acres, with not less than 100 feet width.
- (2) Minimum yard requirements shall be the following:
  - (a) Front yard depth: not less than 50 feet.
  - (b) Side yard depth: not less than 15 feet.
  - (c) Rear yard depth: not less than 50 feet or 20% of lot depth
- (3) There shall be no height limits placed on agricultural buildings constructed in this district. The maximum height of a non-agricultural building in this district shall be 35 feet.

**ARTICLE 4  
A-2 AGRICULTURAL RESIDENTIAL DISTRICT**

Section.

- |         |                                      |
|---------|--------------------------------------|
| 44-401. | Purpose and characteristics.         |
| 44-402. | Permitted uses.                      |
| 44-403. | Special uses.                        |
| 44-404. | Area, yard, and height requirements. |

**44-401. Purpose and characteristics.**

The (A-2) Agricultural Residential District is intended to provide for low-density acreage residential development in selected areas adjacent or in close proximity to the corporate limits of the City and other developed areas within the City jurisdiction. Generally, these districts are located near urban and built-up areas within reasonable reach of fire protection and hard surfaced roads.

**44-402. Permitted uses.**

Within the (A-2) Agricultural Residential District, a building or premises shall be used only for the following purposes:

- (1) Agricultural uses, with a maximum of one animal unit per acre.
- (2) One single-family dwelling.
- (3) Manufactured homes which comply with the provisions of section 44-1705.
- (4) Irrigation and flood control projects.
- (5) Public parks and recreational areas.
- (6) Community buildings and/or facilities owned and/or occupied by public agencies.
- (7) Public and/or private schools.
- (8) Customary incidental home occupations in accordance with the provisions of section 44-1603.
- (9) Accessory buildings, structures, or uses subordinate and customarily incidental to and located on the same lot with any of the foregoing uses.



(10) Major off-street parking facilities in conjunction with all uses in the foregoing list.

(11) Signs. The following on-premises signs shall be permitted, so long as they do not exceed eight feet in height:

(a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:

(i) One single sign with a maximum area of four square feet, with the exception that a maximum area of 50 square feet shall be allowed for the uses specified in subsections (2), (3), (4), and (5) above.

(b) One temporary on-site, non-illuminated sign, not to exceed six square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

**44-403. Special uses.**

The City Council may authorize the following special uses in the (A-2) Agricultural Residential District, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503:

- (1) Airports and heliports, including crop-dusting.
- (2) Agricultural service establishments primarily engaged in performing agricultural, animal husbandry, or horticultural services.
- (3) Places of worship such as churches, synagogues, and temples.
- (4) Cemeteries, crematories, mausoleums, and columbaria.
- (5) Child-care centers.
- (6) Radio and television towers and transmitters.
- (7) Recreation camps
- (8) Wind generating systems.
- (9) Kennels.
- (10) Public and private charitable institutions.
- (11) Greenhouses and nurseries of a commercial nature.
- (12) Collection and composting of yard waste.

Statutory reference: Neb RS 71-3101.

**44-404. Area, yard, and height requirements for principal buildings.**

Minimum area, yard, and height requirements for the (A-2) Agricultural Residential District shall be the following:

- (1) Minimum lot size shall be three acres with not less than 220 feet width.
- (2) Minimum yard requirements shall be the following:
  - (a) Front yard depth: not less than 50 feet.
  - (b) Side yard width: not less than 15 feet.
  - (c) Rear yard depth: not less than 50 feet or 20% of lot depth.

(3) The maximum height of a non-agricultural building in this district shall be 35 feet.

**44-405. Area, yard, and height requirements for an accessory building.**  
Minimum area, yard, and height requirements for the (A-2) Agricultural Residential District shall be the following:

- (1) Front yard depth: not less than 50 feet.
- (2) Side yard width: not less than 15 feet.
- (3) Rear yard depth: not less than 10 feet.
- (4) The maximum height of an accessory building in this district is 18 feet. The building height for said building may increase at an increment of one foot in height for each 1,000 square feet in area for lots over 15,000 square feet in area provided the building does not exceed 35 feet in height.
- (5) An accessory building that is part of or attached to a principal building shall not exceed the area of the principal building.
- (6) Approval of permits for accessory buildings shall conform to 44-1701

## **ARTICLE 5 C-1 BUSINESS DISTRICT – CENTRAL**

Section.

- 44-501. Purpose and characteristics.  
44-502. Permitted uses.  
44-503. Special uses.  
44-504. Area, yard, and height requirements.

**44-501. Purpose and characteristics.**

The purpose of the (C-1) Business District – Central is to establish the location of the downtown or predominant shopping area of the City in relation to its intended use, that being to best serve the largest number of patrons within the community's service area with the widest variety of goods and services. Through the proper zoning classification and use of restrictions, it is the intent of this section to prevent the scattering of commercial uses and to centralize together the predominant retail and service activities needed to satisfy the local shopping public.

Historical reference: Ord. 1092, passed 8-10-99

**44-502. Permitted uses.**

Within the (C-1) Business District – Central, buildings and premises shall be used only for the following purposes:

- (1) Theaters and auditoriums.
- (2) Lodges, clubs, fraternal organizations, and places for entertainment and public gatherings.
- (3) Banks, financial institutions, loan offices, and tax services.
- (4) Insurance, real estate, and business offices or establishments.
- (5) Medical, dental, and health offices, clinics, and establishments, excluding

veterinary clinics.

(6) Funeral homes.

(7) Professional offices and establishments.

(8) Barber shops, beauty salons, reducing salons, and photographic studios.

(9) Restaurants, cafes, short order establishments, bars, liquor stores, and nightclubs.

(10) Ice cream and dairy stores and establishments selling specialty food items, but not exclusively drive-in type facilities.

(11) Furniture, appliance, radio and television, and office furniture and supply stores.

(12) Clothing, haberdashers, shoe stores, specialty clothing and dressmaking shops.

(13) Drug stores, record shops, jewelry, hardware, and variety stores, and specialty item establishments.

(14) Department stores, florist shops, farm and garden supplies, sporting goods and hobby shops.

(15) Transportation depots, communication offices, and travel agencies.

(16) Dry cleaning pick-up establishments; Laundromats, but not laundries; shoe and clothing repair shops; furniture and appliance repair and upholstery establishments.

(17) Hotels.

(18) Paint stores, rugs and floor covering shops, and gun and firearms establishments.

(19) Major off-street parking facilities as an integral design consideration with all of the uses in the C-1 Zone.

(20) Public works, public buildings, public utility facilities, such as transformer stations, pumping stations, water towers, radio or television transmitter stations, and telephone exchanges.

(21) Libraries, private clubs, lodges, and social, recreational, and entertainment facilities and structures only for games and sports.

(22) Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.

(23) Single and multi family dwellings.

(24) Signs. The following on-premises signs shall be permitted:

(a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected, and shall be part of the architectural design or theme of the building. Said signs shall be limited to the following:

(i) One single sign, attached to the facade of the building, occupying no more than 10% of the surface area of said facade.

(b) One temporary on-site, non-illuminated sign, not to exceed eight square feet in area and advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

Historical reference: Ord. 1092, passed 8-10-99

**44-503. Special uses.**

The City Council may authorize the following special uses in the (C-1) Business District – Central, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503:

- (1) Churches, Sunday schools, and other places of worship.
- (2) Private and/or parochial schools.
- (3) Day-care facilities and preschools.

Historical reference: Ord. 1092, passed 8-10-99

**44-504. Area, yard, and height requirements.**

Area, yard, and height requirements for the (C-1) Business District – Central shall be the following:

- (1) There shall be no limitations placed on the size of the lot.
- (2) Minimum yard requirements shall be the following:
  - (a) Front yard depth: none.
  - (b) Side yard width: none, except on the side of a lot adjoining a residential district, in which case a side yard of not less than eight feet shall be provided. If a side yard is allowed, built, or used, it shall be not less than five feet in width.
  - (c) Rear yard depth: none, except, on the rear of a lot adjoining a residential district, in which case a rear yard of not less than 25 feet shall be provided.
- (3) The maximum height of a building in this district shall be 45 feet.
- (4) Freestanding on-premises signs shall not exceed 90 square feet in area and 35 feet in height.

Historical reference: Ord. 1092, passed 8-10-99

**ARTICLE 6  
C-2 BUSINESS DISTRICT – HIGHWAY**

Section.

- |         |                                      |
|---------|--------------------------------------|
| 44-601. | Purpose and characteristics.         |
| 44-602. | Permitted uses.                      |
| 44-603. | Special uses.                        |
| 44-604. | Area, yard, and height requirements. |

**44-601. Purpose and characteristics.**

The purpose of the (C-2) Business District – Highway is to establish the location of areas best suited for the needs of highway-related business within the planning area, those commercial types being characterized by the need for larger lot sizes, off-street parking, and immediate access to transient traffic.

**44-602. Permitted uses.**

Within the (C-2) Business District – Highway, a building or premises shall be used only for the following purposes:

- (1) Farm equipment sales and service.
  - (2) Automotive sales, services, and storage.
  - (3) Restaurants, cafes, drive-in restaurants, and drinking establishments.
  - (4) Motels, hotels, and tourist accommodations.
  - (5) Trailer sales, separate from trailer parks.
  - (6) Commercial recreation and entertainment, such as drive-in theaters, miniature golf courses, bowling alleys, dance halls, skating rinks, drag strips, golf driving and target ranges.
  - (7) Truck terminals and related storage facilities.
  - (8) Commercial storage or rental storage facilities completely within an enclosed building.
  - (9) Gas stations.
  - (10) Public and private parking lots.
  - (11) Food, drug, dairy, liquor, furniture, and appliance stores.
  - (12) Dry cleaners, laundries, barber and beauty shops, lumber yards, paint stores, clothing stores, farm and garden supply, sporting goods, and hobby shops.
  - (13) Medical clinics, hospitals, convalescent homes, funeral homes, and veterinary clinics excluding kennels.
  - (14) Public or private clubs, lodges, social, recreational, and entertainment facilities, or grounds for games and sports, including public or privately owned museums.
  - (15) Public works and public utility facilities such as transformer stations pumping stations, water towers, radio or television transmitter stations, and telephone exchanges.
  - (16) Banks, financial institutions, loan offices, and tax services.
  - (17) Insurance, real estate, and business offices or establishments.
  - (18) Professional offices and establishments.
  - (19) Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.
  - (20) Lumber wood sales.
  - (21) Portable storage structures subject to the conditions and protective restriction set forth in Section 44-1713:
  - (22) Signs. The following on-premises signs shall be permitted, so long as they do not exceed 35 feet in height:
    - (a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected, consisting of no more than:
      - (i) One single sign, attached to each facade of the building, occupying no more than 10% of the surface area of said facade.
      - (ii) One freestanding on premise sign not to exceed 90 square feet in area.
    - (b) One temporary on-site, non-illuminated sign, not to exceed eight square feet in area and advertising the sale or rental of the property.
- Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

**44-603. Special uses.**

The City Council may authorize the following special uses in the (C-2) Business District – Highway, but only after receiving the recommendation of the Planning

Commission; after a public hearing; and subject to the conditions and protective restriction set forth in section 44-1503:

(1) Mobile home parks or courts, subject to the regulations outlined in section 44-1503(B).

(2) The open storage, parking, or sale of building materials and supplies, wholesale and warehousing goods, and contractors' equipment.

(3) Recycling facilities as provided for in Chapter 34 of this code. Such a facility in this zone shall only be permitted if it is limited in the scope of its operation. Factors to be considered in determining the scope of operation shall include, but not be limited to, area covered, odor produced, noise produced, and ability to control loose material resulting from the operation.

(4) Churches, Sunday schools, and other places of worship.

(5) Freestanding off-premises signs or billboards which meet the following requirements:

(a) Having a total sign area of 256 square feet or less;

(b) Placed at least 250 feet from any other off-premises sign; and

(c) Having an overall height of 35 feet or less.

(6) Collection and composting of yard waste.

(7) Single family dwellings.

(8) Day-care facilities and preschools in conformance with requirements set forth by the State of Nebraska.

(9) Commercial rental storage facilities that allow outside storage of licensed vehicles and utility trailers.

**44-604. Area, yard, and height requirements.**

Area, yard, and height requirements for the (C-2) Business District – Highway shall be the following:

(1) There shall be no limitations placed on the size of the lot.

(2) Minimum yard requirements shall be as follows:

(a) Front yard depth: none.

(b) Side yard width: none, except on the side of a lot adjoining a residential district, in which case a side yard of not less than eight feet shall be provided. If a side yard is allowed, built, or used, it shall be not less than five feet in width.

(c) Rear yard depth: none, except on the rear of a lot adjoining a residential district, in which case a rear yard of not less than 25 feet shall be provided.

(3) The maximum height of a building in this district shall be 45 feet.

(4) Freestanding on-premises signs shall not exceed 90 square feet in area and 35 feet in height.

**ARTICLE 7**

**C-3 BUSINESS DISTRICT – NEIGHBORHOOD**

Section.

44-701. Purpose and characteristics.

44-702. Permitted uses.

- 44-703. Special uses.
- 44-704. Area, yard, and height requirements.

**44-701. Purpose and characteristics.**

The purpose of the (C-3) Business District – Neighborhood is to establish the types of business that are considered desirable immediately accessible to single-family low density residential neighborhoods. Although it is desirable to have some types of business enterprise adjacent to residential areas, it can be easily seen that other types, which by their intended nature generate large amounts of vehicular traffic, can better be accommodated in the Business District – Central, or in highway business zones which are served by major arterial streets or highways.

**44-702. Permitted uses.**

Within the (C-3) Business District – Neighborhood, a building or premises shall be used only for the following purposes:

- (1) Food and dairy product stores, but excluding supermarket-type operations.
- (2) Laundromat and dry cleaning pick-up stations.
- (3) Barber and beauty shops.
- (4) Medical and dental offices.
- (5) Insurance and real estate offices.
- (6) Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.
- (7) Signs. The following on-premises signs shall be permitted, so long as they do not exceed 12 feet in height:
  - (a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:
    - (i) One single freestanding sign with a maximum area of 24 square feet.
    - (ii) One single sign, attached to the facade of the building, occupying no more than 10% of the surface area of said facade.
  - (b) One temporary on-site, non-illuminated sign, not to exceed eight square feet in area, advertising the sale or rental of the property.Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.
- (8) Off-street parking facilities for any of the above listed uses.

**44-703. Special uses.**

The City Council may authorize the following special uses in the (C-3) Business District – Neighborhood, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503:

- (1) Public works and public utility facilities such as transformer stations, pumping stations, water towers, radio or television transmitter stations, and telephone exchanges.
- (2) Churches, Sunday schools, and other places of worship.
- (3) Single family dwellings

**44-704. Area, yard, and height requirements.**

Area, yard, and height requirements for the (C-3) Business District – Neighborhood shall be the following:

- (1) There shall be no minimum requirements on the lot size, except that the width of such lot shall be not less than 80 feet.
- (2) Minimum yard requirements shall be the following:
  - (a) Front yard depth: not less than 25 feet.
  - (b) Side yard width: same as that indicated for the Business District – Central (C-1).
  - (c) Rear yard depth: same as that indicated for the Business District – Central (C-1).
- (3) The maximum height of a building in this district shall be 35 feet.

**ARTICLE 8**

**C-4 BUSINESS DISTRICT – INTERSTATE HIGHWAY**

Section.

- |         |                                      |
|---------|--------------------------------------|
| 44-801. | Purpose and characteristics.         |
| 44-802. | Permitted uses.                      |
| 44-803. | Special uses.                        |
| 44-804. | Area, yard, and height requirements. |

**44-801. Purpose and characteristics.**

The purpose of the (C-4) Business District – Interstate Highway is to establish the location of areas best suited to the needs of highway-related business types within the Planning Area, those commercial types being characterized by a need for larger lot sizes, off-street parking, and immediate access to transient traffic.

**44-802. Permitted uses.**

Within the (C-4) Business District – Interstate Highway a building or premises shall be used only for the following purposes:

- (1) Farm equipment sales and service.
- (2) Automotive sales, services, and storage.
- (3) Restaurants, cafes, drive-in restaurants, and drinking establishments.
- (4) Motels, hotels, tourist accommodations, and souvenir shops.
- (5) Mobile home and recreational vehicle sales separate from mobile home parks.
- (6) Commercial recreation and entertainment, such as drive-in theaters, miniature golf courses, bowling alleys, dance halls, skating rinks, drag strips, and golf driving and target ranges.
- (7) Truck terminals and related storage facilities containing a maximum of 3,000 square feet.
- (8) Commercial storage or rental storage facilities completely within an enclosed building.
- (9) Gas stations with below-ground storage facilities.
- (10) Public and private parking lots.
- (11) Food, dairy, liquor, furniture, and appliance stores.



(12) Dry cleaners, laundries, lumberyards, paint stores, farm and garden supply, sporting goods, and hobby shops.

(13) Public or private clubs, lodges, social, recreational, and entertainment facilities; or grounds for games and sports, including public or privately owned museums.

(14) Public works and public utility facilities such as transformer stations, pumping stations, water towers, radio or television transmitter stations, and telephone exchanges.

(15) Shopping centers, strip malls, or regional commercial centers.

(16) Banks, financial institutions, loan offices, and tax services.

(17) Insurance, real estate, and business offices or establishments.

(18) Medical, dental, and health offices, clinics, and establishments, excluding veterinary clinics.

(19) Professional offices and establishments.

(20) Portable storage structures subject to the conditions and protective restriction set forth in Section 44-1713:

(21) Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard, which may include a dwelling unit for occupancy only by the owner or proprietor.

(22) Signs. The following on-premises signs shall be permitted, so long as they do not exceed 80 feet in height:

(a) Permanent illuminated or non-illuminated advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the Zoning District in which they are to be erected, including but not limited to the following:

(i) One single sign, attached to the facade of the building, occupying no more than 10% of the surface area of said facade.

(b) One temporary on-site sign, non-illuminated, not to exceed 32 square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

(23) Customer Parking. Customer parking may be permitted in the front yard area, except the front 15 feet may be excluded or controlled by rules and regulations of the City.

#### **44-803. Special uses.**

The City Council may authorize the following special uses in the (C-4) Business District – Interstate Highway, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503:

(1) Mobile home parks, subject to the regulations outlined in chapter 26.

(2) Mobile home parks, subject to the regulations outlined in chapter 26, together with mobile home sales.

(3) The open storage, parking, or sale of building materials and supplies, wholesale and warehousing goods, and contractors' equipment.

(4) Churches, Sunday schools, and other places of worship.

(5) Collection and composting of yard waste.

(6) Single family dwellings.

(7) Multi-Family Dwellings.

**44-804. Area, yard, and height requirements.**

Area, yard, and height requirements for the (C-4) Business District – Interstate Highway shall be the following:

- (1) There shall be no minimum lot size.
- (2) Minimum yard requirements shall be the following:
  - (a) Front yard depth: not less than 25 feet.
  - (b) Side yard width: not less than ten feet.
  - (c) Rear yard depth: not less than 20 feet.
- (3) There shall be no maximum building height.

**ARTICLE 9  
H-1 HISTORICAL DISTRICT**

Section.

- |         |                                      |
|---------|--------------------------------------|
| 44-901. | Purpose and characteristics.         |
| 44-902. | Permitted uses.                      |
| 44-903. | Special uses.                        |
| 44-904. | Area, yard, and height requirements. |

**44-901. Purpose and characteristics.**

The purpose of the (H-1) Historical District is to emphasize the character and architectural theme of buildings present in the City at the time the community was first developed. At the same time, commercial structures are encouraged as long as the older type of architectural treatment and appropriate choice of building materials are used and the commercial complex carries out the design theme. This zone is created to complement the Business District – Highway Zone and to add interest and tourist appeal to the community.

**44-902. Permitted uses.**

Within the (H-1) Historical District, a building or premises shall be used only for the following purposes:

- (1) Restaurants, cafes, drive-in restaurants, and drinking establishments.
- (2) Motels and tourist accommodations and personal services.
- (3) Mobile home sales, separate from mobile home parks.
- (4) Commercial recreation and entertainment, such as drive-in theaters, miniature golf courses, bowling alleys, dance halls, skating rinks, drag strips, and golf driving and target ranges.
- (5) Gas stations.
- (6) Public and private parking lots.
- (7) Food, drug, dairy, liquor, furniture, and appliance stores.
- (8) Dry cleaning pick-up stations, laundries, barber and beauty shops, clothing stores, farm and garden supply, sporting goods, and hobby shops.
- (9) Public and private clubs, private lodges, private social, recreational, and entertainment facilities, or grounds for games and sports.

(10) Public works and public utility facilities, such as transformer stations, pumping stations, water towers, radio or television transmitter stations, or telephone exchanges.

(11) Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.

(12) Signs. The following on-premises signs shall be permitted, so long as they do not exceed 35 feet in height:

(a) Permanent illuminated or non-illuminated advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the Zoning District in which they are to be erected, and shall be advertising signs which are part of the architectural design or theme of the building and historical theme of the (H-1) Zoning District. Said signs shall be limited to:

(i) One single free standing sign with a maximum area of 90 square feet.

(2) One single sign attached to the facade of the building, occupying no more than 10% of the surface area of said facade.

(b) One temporary on-site, non-illuminated sign, not to exceed 16 square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

**44-903. Special uses.**

The City Council may authorize the following special uses in the (H-1) Historical District, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503:

(1) Churches, Sunday schools, and other places of worship.

**44-904. Area, yard, and height requirements.**

Area, yard, and height requirements for the (H-1) Historical District shall be the following:

(1) Minimum lot size shall be 10,000 square feet with not less than an 80-foot width and a 100-foot depth.

(2) Minimum yard requirements shall be the following:

(a) Front yard depth: not less than 50 feet.

(b) Side yard width: same as that indicated for the Business District – Central (C-1).

(c) Rear yard depth: same as that indicated for the Business District – Central (C-1).

(3) The maximum height of a building in this district shall be 35 feet.

**ARTICLE 10  
I-1 INDUSTRIAL DISTRICT**

Section.

44-1001. Purpose and characteristics.

44-1002. Permitted uses.

44-1003. Special uses.

44-1004. Area, yard, and height requirements.

**44-1001. Purpose and characteristics.**

The purpose of the (I-1) Industrial District is to establish the area or areas within the planning area where manufacturing or processing of products can be grouped together and set apart from the residential and business areas because of bulk, noise, odor, or the need for segregation of placement due to unusual circumstances related to the manufacturing or industrial processes.

**44-1002. Permitted uses.**

Within the (I-1) Industrial District, a building or premises shall be used only for the following purposes:

- (1) Lumber and building materials manufacturing.
- (2) Appliance and mechanical instruments manufacturing and sales.
- (3) Electronic equipment manufacture.
- (4) Food processing.
- (5) Hatcheries.
- (6) Machine shops and sheet metal shops.
- (7) Milling, animal feed preparation, and grain elevators.
- (8) Contractors' offices and shops.
- (9) Furniture and cabinet manufacture.
- (10) Garages for storage, repair, and servicing of motor vehicles.
- (11) Dry cleaning and laundry plants.
- (12) Printing and publishing plants.
- (13) Textile manufacturing.
- (14) Manufacturing, wholesale, warehousing, and commercial storage completely within an enclosed building.
- (15) Rental storage facilities including outside storage of licensed vehicles and utility trailers only.
- (16) Transportation terminals and freight yards.
- (17) Utility offices, installation, and shops.
- (18) Plumbing, heating, and air conditioning manufacture and service.
- (19) Oil and water wells, drilling, and associated activities.
- (20) Sign manufacturing.
- (21) Concrete, asphalt, and ready-mix operations.
- (22) Gasoline, oil, and petroleum products, production, and storage.
- (23) Paint, glue solvents, or alcohol production.
- (24) Woodcutting and splitting.
- (25) Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard, which may include a dwelling unit for occupancy only by the owner or proprietor.
- (26) Signs. The following on-premises signs shall be permitted, so long as they do not exceed 35 feet in height:
  - (a) Permanent illuminated or non-illuminated advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected.

Said signs shall be limited to the following:

- (i) One single free standing sign with a maximum area of 90 square feet;
  - (ii) One single sign, attached to the facade of the building, occupying no more than 10% of the surface area of said facade; or
  - (iii) One single billboard-type sign 24 square feet in area, for use as advertising products or services considered incidental to the primary use of the building or premises, attached to and parallel with the facade of the building.
- (b) One temporary on-site sign, non-illuminated, not to exceed 16 feet in area and advertising the sale or rental of the property.
- Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

**44-1003. Special uses.**

The City Council may authorize the following special uses in the (I-1) Industrial District, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restriction set forth in section 44-1503:

- (1) Solid waste transfer facilities, which shall be enclosed buildings with safety and environmental controls where small trucks can deposit solid waste for transfer to larger trucks for long distance hauling or larger transport containers which can be moved by large trucks designed for efficient long distance hauling.
- (2) Churches, Sunday schools, and other places of worship.
- (3) Recycling facilities as provided for in Chapter 34 of this code.
- (4) Collection and composting of yard waste.
- (5) Livestock feed lots and sale barns, kennels and veterinary establishments.

**44-1004. Area, yard, and height requirements.**

Area, yard, and height requirements for the (I-1) Industrial District shall be as follows:

- (1) Minimum lot size shall be 10,000 square feet and not less than 80 feet in width and 100 feet in depth.
- (2) Minimum yard requirements shall be the following:
  - (a) Front yard depth: not less than 35 feet.
  - (b) Side yard width: same as that indicated for the Business District – Central (C-1).
  - (c) Rear yard depth: none.
- (3) There shall be no height limits placed on buildings constructed in this district.

**ARTICLE 11  
R-1 RESIDENTIAL DISTRICT – LOW DENSITY**

Section.

- 44-1101. Purpose and characteristics.
- 44-1102. Permitted uses.
- 44-1103. Special uses.
- 44-1104. Area, yard, and height requirements.

**44-1101. Purpose and characteristics.**

The purpose of the (R-1) Residential District is to establish the general location of single-family, low density residential neighborhoods throughout the Planning Area of the City. Other uses complementary to, but not in conflict with, single-family dwellings are also allowed. However, it is the intent that the R-1 Residential Zone should basically retain the characteristics of a quiet residential area.

**44-1102. Permitted uses.**

Within the (R-1) Residential District, a building or premises shall be used only for the following purposes:

- (1) Single-family dwellings.
- (2) Manufactured homes which comply with the provisions of section 44-1705.
- (3) Public uses including, but not limited to, public parks, playgrounds, trails, golf courses, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems.
- (4) Churches, Sunday schools, and other places of worship.
- (5) Customary incidental home occupations in accordance with the provisions set forth in section 44-1603.
- (6) Accessory buildings, structures, or uses subordinate and customarily incidental to and located on the same lot with any of the foregoing principal uses.
- (7) Major off-street parking facilities in conjunction with all uses in the foregoing list.
- (8) Signs. The following on-premises signs shall be permitted, so long as they do not exceed eight feet in height:
  - (a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:
    - (i) One single sign with a maximum area of four square feet, with the exception that a maximum area of 50 square feet shall be allowed for the uses specified in subsections (3), (4), and (5).
    - (b) One temporary on-site, non-illuminated sign, not to exceed six square feet in area, advertising the sale or rental of the property.Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

**44-1103. Special uses.**

The City Council may authorize the following special uses in the (R-1) Residential District, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restriction set forth in section 44-1503:

- (1) Private clubs; private lodges; private social, recreational, and entertainment facilities; or grounds for games and sports.
- (2) Radio or television transmitter stations and telephone exchanges.
- (3) Private and/or parochial schools.

- (4) Signs, not to exceed a maximum of 50 square feet for private clubs and private lodges.
- (5) Day-care facilities and preschools.
- (6) Model homes as defined in section 44-104.

**44-1104. Area, yard, and height requirements for a principal building.**

Minimum area, yard, and height requirements for the (R-1) Residential District shall be the following:

- (1) Minimum lot size shall be 7,500 square feet with not less than a 60-foot width and a 125-foot depth.
- (2) Minimum yard requirements shall be the following:
  - (a) Front yard depth: not less than 25 feet.
  - (b) Side yard width: not less than eight feet.
  - (c) Rear yard depth: not less than 25 feet.
- (3) The maximum height of a building in this district shall be 35 feet.

**44-1105. Area, yard, and height requirements for a detached accessory building.**

Minimum area, yard, and height requirements for the (R-1) Residential District shall be the following:

- (1) Front yard depth: not less than 25 feet.
- (2) Side yard width: not less than 5 feet.
- (3) Rear yard depth: not less than 6 feet.
- (4) The maximum height of an accessory building in this district is 18 feet. The building height for said building may increase at an increment of one foot in height for each 1,000 square feet in area for lots over 15,000 square feet in area provided the building does not exceed 35 feet in height.
- (5) An accessory building that is part of or attached to a principal building shall not exceed the area of the principal building.
- (6) Approval of permits for accessory buildings shall conform to 44-1701.

**ARTICLE 12**

**R-1S RESIDENTIAL DISTRICT – LOW DENSITY SPECIAL**

**Section.**

**44-1201. Purpose and characteristics.**

**44-1202. Permitted uses.**

**44-1203. Special uses.**

**44-1204. Area, yard, and height requirements.**

**44-1205. Area, yard, and height requirements for a detached accessory building.**

**44-1201. Purpose and characteristics.**

The purpose of the (R-1S) Residential District – Low Density Special is to establish the general location of single-family, low density residential neighborhoods throughout

the Planning Area of the City. Other uses complementary to, but not in conflict with, single-family dwellings are also allowed. However, it is the intent that the R-1S Residential Zone should basically retain the characteristics of a quiet residential area.

**44-1202. Permitted uses.**

Within the (R-1S) Residential District – Low Density Special, a building or premises shall be used only for the following purposes:

- (1) Single-family dwellings.
  - (2) Manufactured homes which comply with the provisions of section 44-1705.
  - (3) Public uses including, but not limited to, public parks, playgrounds, trails, golf courses, recreational uses, fire stations, public schools, public utilities and utility distribution systems.
  - (4) Churches, Sunday schools, and other places of worship.
  - (5) Customary incidental home occupations in accordance with the provisions of section 44-1603.
  - (6) Accessory buildings, structures, or uses subordinate and customarily incidental to and located on the same lot with any of the foregoing principal uses.
  - (7) Major off-street parking facilities in conjunction with all uses in the foregoing list.
  - (8) The keeping of one head of roping stock for each saddle horse and livestock other than saddle horses and roping stock under the following conditions:
    - (a) A minimum area of 3,000 square feet shall be required for each horse and each head of roping stock in addition to the minimum lot size for the district.
    - (b) For livestock other than horses, only one animal per member of each family occupying each residence will be permitted; provided, an area of 3,000 square feet per animal is required.
  - (9) Signs. The following on-premises signs shall be permitted, so long as they do not exceed eight feet in height:
    - (a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:
      - (i) One single sign with a maximum area of four square feet, with the exception that a maximum area of 50 square feet shall be allowed for the uses specified in subsections (3), (4), and (5).
      - (b) One temporary on-site, non-illuminated sign, not to exceed six square feet in area, advertising the sale or rental of the property.
- Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

**44-1203. Special uses.**

The City Council may authorize the following special uses in the (R-1S) Residential District – Low Density Special, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503:

- (1) Private clubs, private lodges, private social, recreational, and entertainment



facilities, or grounds for games and sports.

(2) Radio or television transmitter stations and telephone exchanges.

(3) Private and/or parochial schools.

(4) Signs, not to exceed a maximum of 50 square feet for private clubs and private lodges.

(5) Day-care facilities and preschools.

(6) Model homes as defined in section 44-104.

(7) Utility structures of non-commercial use subject to further conditions and protective restrictions set forth in Section 44-1712

**44-1204. Area, yard, and height requirements.**

Area, yard, and height requirements for the (R-1S) Residential District – Low Density Special shall be the following:

(1) Minimum lot size shall be 6,000 square feet with a minimum width of 60 feet and a minimum depth of 100 feet.

(2) Minimum yard requirements shall be the following:

(a) Front yard depth: not less than 25 feet.

(b) Side yard depth: not less than eight feet.

(c) Rear yard depth: not less than 25 feet.

(3) The maximum height of a building in this district shall be 35 feet.

**44-1205. Area, yard, and height requirements for a detached accessory building.**

Minimum area, yard, and height requirements for the (R-1S) Residential District Low-Density Special shall be the following:

(1) Front yard depth: not less than 25 feet.

(2) Side yard width: not less than 5 feet.

(3) Rear yard depth: not less than 6 feet.

(4) The maximum height of an accessory building in this district is 18 feet. The building height for said building may increase at an increment of one foot in height for each 1,000 square feet in area for lots over 15,000 square feet in area provided the building does not exceed 35 feet in height.

(5) An accessory building that is part of or attached to a principal building shall not exceed the area of the principal building.

(6) Approval of permits for accessory buildings shall conform to 44-1701.

**ARTICLE 13**

**R-2 RESIDENTIAL DISTRICT – MEDIUM DENSITY**

Section.

44-1301. Purpose and characteristics.

44-1302. Permitted uses.

44-1303. Special uses.

44-1304. Area, yard, and height requirements.

- 44-1305. Area, yard, and height requirements for a detached accessory building.

**44-1301. Purpose and characteristics.**

The purpose of the (R-2) Residential District – Medium Density is to provide for single-and multiple-family living, but also to afford flexibility for the establishment of uses, other than residential, that are not detrimental to the overall intent of the residential neighborhood. This zone, although it accommodates both residential and semi-commercial uses, is not a business zone since the overall consideration is for residential habitation and transcending into a two- or multiple-family high density district.

**44-1302. Permitted uses.**

Within the (R-2) Residential District – Medium Density, a building or premises shall be used only for the following purposes:

- (1) Single-family dwellings.
- (2) Two-family dwellings.
- (3) Manufactured homes which comply with the provisions of section 44-1705.
- (4) Multi-family dwellings.
- (5) Rooming and boarding houses not intended as tourist accommodations.
- (6) Public uses including, but not limited to, public parks, playgrounds, trails, golf courses, recreational uses, fire stations, public schools, public utilities and utility distribution systems.
- (7) Hospitals, convalescent or nursing homes, and medical clinics, excluding veterinary hospitals and mental institutions.
- (8) Churches, Sunday schools, and other places of worship.
- (9) Customary incidental home occupations in accordance with the provisions of section 44-1603.
- (10) Accessory buildings, structures, or uses subordinate and customarily incidental to and located on the same lot with any of the foregoing principal uses.
- (11) Public and private off-street parking facilities as an integral design feature in the development of any of the above-listed uses.
- (12) Signs. The following on-premises signs shall be permitted, so long as they do not exceed eight feet in height:
  - (a) Permanent illuminated or non-illuminated advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:
    - (i) One single sign with a maximum area of four square feet, with the exception that a maximum area of 50 square feet shall be allowed for the uses specified in sections (4), (5), (6), (7), (8), and (9).
    - (b) One temporary on-site, non-illuminated sign, not to exceed six square feet in area, advertising the sale or rental of the property.Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.
  - (13) Townhouses.

**44-1303. Special uses.**

The City Council may authorize the following special uses in the (R-2) Residential District – Medium Density, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restriction set forth in section 44-1503:

- (1) Private clubs, private lodges, private social, recreational, and entertainment facilities, or grounds for games and sports.
- (2) Radio or television transmitter stations or telephone exchanges.
- (3) Mortuary or funeral homes.
- (4) Medical clinics, where part of a civic center.
- (5) Private and/or parochial schools.
- (6) Day-care facilities and preschools.
- (7) On-premises signs, not to exceed a maximum of 50 square feet for private clubs and private lodges.
- (8) Model homes as defined in section 44-104.
- (9) Professional offices and establishments.
- (10) Barber and beauty shops.
- (11) Utility structures of non-commercial use subject to further conditions and protective restrictions set forth in Section 44-1712

**44-1304. Area, yard, and height requirements.**

Area, yard, and height requirements for the (R-2) Residential District – Medium Density shall be the following:

- (1) Minimum lot size shall be 6,000 square feet with not less than a 60-foot width and a 100-foot depth.
- (2) Minimum yard requirements shall be the following:
  - (a) Front yard depth: not less than 25 feet.
  - (b) Side yard width: not less than eight feet.
  - (c) Rear yard depth: not less than 25 feet.
- (3) The maximum height of a building in this district shall be 35 feet.
- (4) These requirements are applicable to single-family, two-family, and multi-family dwellings alike, with the following exceptions:
  - (a) Minimum lot size for a duplex shall be 3,000 square feet per family dwelling unit.
  - (b) Minimum lot size for a multi-family dwelling shall be 2,500 square feet per family dwelling unit.

**44-1305. Area, yard, and height requirements for a detached accessory building.**

Minimum area, yard, and height requirements for the (R-2) Residential District Medium Density shall be the following:

- (1) Front yard depth: not less than 25 feet.
- (2) Side yard width: not less than 5 feet.
- (3) Rear yard depth: not less than 6 feet.

- (4) The maximum height of an accessory building in this district is 18 feet. The building height for said building may increase at an increment of one foot in height for each 1,000 square feet in area for lots over 15,000 square feet in area provided the building does not exceed 35 feet in height.
- (5) An accessory building that is part of or attached to a principal building shall not exceed the area of the principal building.
- (6) Approval of permits for accessory buildings shall conform to 44-1701.

## **ARTICLE 14**

### **R-3 RESIDENTIAL DISTRICT – HIGH DENSITY**

Section.

- |          |  |
|----------|--|
| 44-1401. | Purpose and characteristics.   |
| 44-1402. | Permitted uses.  |
| 44-1403. | Special uses.  |
| 44-1404. | Area, yard, and height requirements.                                   |
| 44-1405. | Area, yard, and height requirements for a detached accessory building. |

**44-1401. Purpose and characteristics.**

The purpose of the (R-3) Residential District – High Density is to provide for the use of land for mobile home courts and individually owned lots in mobile home courts or single and multiple-family living. Other uses complementary to, but not in conflict with, single and multiple-family living are also allowed. It is, however, the intent that the R-3 District should basically retain the characteristics of a quiet residential area.

**44-1402. Permitted uses.**

Within the (R-3) Residential District – High Density, a building or premises shall be used only for the following purposes:

- (1) Single-family dwellings.
- (2) Two-family dwellings.
- (3) Multi-family dwellings.
- (4) Manufactured homes which comply with the provisions of section 44-1705.
- (5) Public uses including, but not limited to, public parks, playgrounds, trails, golf courses, recreational uses, fire stations, public schools, public utilities and utility distribution systems.
- (6) Churches, Sunday schools, and other places of worship.
- (7) Customary incidental home occupations in accordance with the provisions of section 44-1603.
- (8) Accessory buildings, structures, or uses subordinate and customarily incidental to and located on the same lot with any of the foregoing principal uses.
- (9) Major off-street parking facilities in conjunction with all uses in the foregoing list.
- (10) Signs. The following on-premises signs shall be permitted, so long as they

do not exceed eight feet in height:

(a) Permanent advertising signs identifying the use of the building, structure, or premises. Such signs shall be in harmony with the intended use of the land and the character of the zoning district in which they are to be erected. Said signs shall be limited to the following:

(i) One single sign with a maximum area of four square feet, with the exception that a maximum area of 50 square feet shall be allowed for the uses specified in subsections (4), (5) and (6).

(b) One temporary on-site, non-illuminated sign, not to exceed six square feet in area, advertising the sale or rental of the property.

Approval of permits for advertising signs and advertising sign specifications shall conform to section 44-1708.

(11) Townhouses.

**44-1403. Special uses.**

The City Council may authorize the following special uses in the (R-3) Residential District – High Density, but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restriction set forth in section 44-1503:

(1) Private clubs, private lodges, private social, recreational, and entertainment facilities, or grounds for games and sports.

(2) Radio or television transmitter stations and telephone exchanges.

(3) Private and/or parochial schools.

(4) Mobile home parks.

(5) Vehicle storage facilities.

(6) Day-care facilities and preschools.

(7) Signs, not to exceed a maximum of 50 square feet for private clubs and private lodges.

(8) Model homes as defined in section 44-104.

(9) Utility structures of non-commercial use subject to further conditions and protective restrictions set forth in Section 44-1712

**44-1404. Area, yard, and height requirements.**

Area, yard, and height requirements for the (R-3) Residential District – High Density shall be the following:

(1) Minimum lot size shall be 5,000 square feet with a minimum width of 50 feet and a minimum depth of 100 feet.

(2) Minimum yard requirements shall be the following:

(a) Front yard depth: not less than 20 feet.

(b) Side yard depth: not less than five feet.

(c) Rear yard depth: not less than 15 feet.

(3) The maximum height of a building in this district shall be 35 feet.

(4) These requirements are applicable to single-family, two-family, and multi-family dwellings alike, with the following exceptions:

(a) Minimum lot size for a two-family dwelling shall be 2,500 square feet per family dwelling unit.

(b) Minimum lot size for a multi-family dwelling shall be 2,000 square feet per family dwelling unit.

**44-1405. Area, yard, and height requirements for a detached accessory building.**

Minimum area, yard, and height requirements for the (R-3) Residential District High Density shall be the following:

- (1) Front yard depth: not less than 20 feet.
- (2) Side yard width: not less than 5 feet.
- (3) Rear yard depth: not less than 6 feet.
- (4) The maximum height of an accessory building in this district is 15 feet. The building height for said building may increase at an increment of one foot in height for each 1,000 square feet in area for lots over 15,000 square feet in area provided the building does not exceed 35 feet in height.
- (5) An accessory building that is part of or attached to a principal building shall not exceed the area of the principal building.
- (6) Approval of permits for accessory buildings shall conform to 44-1701.

**ARTICLE 15  
STANDARDS AND REGULATIONS; GENERALLY**

Section.

- 44-1501. Applicability of provisions.  
44-1502. General restrictions.  
44-1503. Special exceptions.

**44-1501. Applicability of provisions.**

No building or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved, or structurally altered except in conformity with the regulations of this chapter, or amendments, for the district in which it is located.

**44-1502. General restrictions.**

(1) No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that the lot width or depth, front, side, or rear yards, lot area per family, or other requirements of this chapter are not maintained. This prohibition shall not be construed to prevent the condemnation of strips of land for public utilities or street right-of-way purposes.

(2) 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 chapter shall be included as a part of a yard or other open space similarly required for another building or structure.

(3) Only one principal building and its customary accessory buildings may

hereafter be erected on any lot.

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

Statutory reference: Neb. RS 19-902, 19-904.01

**44-1503. Special exceptions.**

(1) Generally. Upon application, pursuant to the provisions of this municipal code, the Council, upon receiving the recommendation of the Planning Commission, shall grant or refuse special exceptions in accordance with the following standards and the intent of this chapter. A written notice of the public hearing stating the time, date, and place of the Planning Commission and City Council meeting shall be sent to all property owners of record within 100 feet of the subject property, said notice to include the type of special exception being requested, prior to the request of special exception being considered. In addition, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten days prior to either hearing. In granting any special exceptions, the Council may prescribe and impose appropriate conditions and safeguards, including a specified time limit.

(2) Standards.

(a) Classified special exceptions shall be authorized only if they meet the following standards:

(i) Fire hazard. The use shall not include any activity involving the use or storage of flammable or explosive material unless protected by adequate firefighting and fire-suppression equipment and by such safety devices as are normally used in the handling of any such material.

(ii) Noise. The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.

(iii) Vibration. The use shall not include vibration which is discernible without instruments on any adjoining lot or property.

(iv) Air pollution. The use shall not involve any pollution of air by flying ash, dust, vapors, or other substances which are harmful to health, animals, vegetation, or other property or which can cause soiling, discomfort, or irritation.

(v) Odors. The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.

(vi) Glare. The use shall not involve any direct or reflected glare that is visible from any adjoining property or from any public street, road, or highway.

(vii) Traffic hazard. 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.

(viii) Overtaxing of public utilities and facilities. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities, unless provision is made for any necessary adjustments.

(ix) Character of neighborhood. The use shall not involve any activity not in character with the majority of the uses in the neighborhood unless, by design, setback, nature of operation, and other devices, the character of the neighborhood will be

maintained.

(x) General welfare of the community. The use shall not involve any activity which adversely affects the general welfare of the community.

(xi) Conformity with Comprehensive Plan. The use shall be in conformance with the Comprehensive Plan.

## **ARTICLE 16 USE STANDARDS**

Section.

- 44-1601. Bed and breakfasts.
- 44-1602 Short term rentals.
- 44-1603. Family care homes.
- 44-1604 Home occupations.
- 44-1605. Temporary uses.

### **44-1601. Bed and breakfasts.**

Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) Bed and Breakfast shall mean a home used to provide residential-style accommodations to the traveling public for 12 or fewer individuals.

(2) Authorized shall mean a bed and breakfast, as defined by this code, is permitted as a special exception in all districts within the City which are zoned for residential use when said bed and breakfast is approved by the City Council, but only after receiving the recommendation of the Planning Commission; after a public hearing; subject to the conditions and protective restrictions set forth in section 44-1503; and subject to all provisions of this code and of state statutes relating to bed and breakfast establishments.

(3) Building, fire, health, and safety standards shall mean a bed and breakfast shall meet all minimum building, fire, health, and safety standards set by state and local laws and regulations applicable to such an establishment.

(4) Supervision shall mean no bed and breakfast shall be permitted to operate without a caretaker or owner present at all times while patrons are in the building.

(5) License.

(a) License required shall mean a bed and breakfast shall not be established, operated, or maintained upon any property within the planning jurisdictional boundaries of the City without having first secured a license from the City Clerk. Prior to the issuance of the initial license for a bed and breakfast establishment, the City Clerk shall receive from the Building Inspector a copy of a certificate of occupancy indicating that the establishment is in compliance with the provisions of this section. The certificate of occupancy shall be maintained on file in the office of the City Clerk. All licenses shall expire on July 31. Application for license renewal shall be made at least 30 days prior to expiration.

(b) License application. The application for such license or renewal thereof shall be filed with the City Clerk and shall be accompanied by the annual fee of \$50. The cost of any license secured having less than six months to run before the expiration date as



herein provided shall be reduced to one-half the original amount. The application for a license or renewal thereof shall be made on forms furnished by the City Clerk and shall include the name, address, and signature of the applicant, if other than the owner; and the address and legal description of the premises upon which the bed and breakfast establishment will be located.

**44-1602. Short term rentals.**

**Definitions.** For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) *Applicant* shall mean the person applying for the license granted pursuant to this Article.
  - (2) *License* shall mean the authorization granted to the Applicant in relation to the licensed premises.
  - (3) *Person* shall mean any natural person, corporation, limited liability company, partnership or any other entity.
  - (4) *Licensed premises* shall mean the premises specified in an approved application for license under this article and within which such licensee is permitted to make all or part of the space in the dwelling available as a short-term rental.
  - (5) *Short-term rental unit* shall mean all or a portion of a dwelling made available to the general public for accommodations for a length of stay per guest visit of no more than thirty (30) consecutive days. Short-term rental units do not include rental of dwellings for meetings including but not limited to luncheons, banquets, parties, weddings, fundraisers, or other similar gatherings for direct or indirect compensation.
  - (6) *Sleeping area* shall mean an area located in a habitable space within a dwelling that contains at least one operable emergency escape and rescue opening (egress window). Sleeping areas include bedrooms and may include rooms within a dwelling other than bedrooms if those rooms satisfy egress standards. Sleeping areas do not include hallways, kitchen or bathrooms.
- (1) Short-term rental license required; prohibited conduct; duties.**
- (a) It shall be unlawful for any person to make available a short-term rental unit for rent or lease within the corporate limits and extraterritorial zoning jurisdiction of the city unless such person holds a valid license therefor.
  - (b) It shall be unlawful for a person, regardless of the license status, to allow occupants of a short-term rental unit to sleep in areas that are not sleeping areas as defined in this article.
  - (c) It shall be unlawful for a person, regardless of the license status, to rent a short-term rental unit to anyone without informing the short-term renter what areas are not permitted for sleeping.
  - (d) The use of a short-term rental for the following is prohibited:
    - (i) Housing sex offenders;
    - (ii) Operating a structured sober living home or similar enterprise;
    - (iii) Selling illegal drugs;
    - (iv) Selling alcohol or another activity that requires a permit or license under the Nebraska Liquor Control Act, or

(v) Operating a sexually oriented business.

(e) Any person making available a short-term rental unit shall provide contact information to all renters for someone who can respond on behalf of the licensee and reach the short-term rental unit within 1 hour in case of an emergency or other issue.

**(2) Application; fees; renewal.**

(a) Before any license under this article is issued, an inspection by a city inspector is required and an application on a form provided by the city shall be submitted setting forth the following information:

- (i) The name and address of the applicant;
- (ii) The address of the short-term rental unit the applicant intends to make available for short-term rental if different from the applicant's address;
- (iii) Information sufficient for the city clerk, in coordination with the Planning & Zoning Department, to identify the location and dimensions of the short-term rental unit within the dwelling; and
- (iv) Contact information for someone who can respond on behalf of the licensee and reach the short-term rental within 45 minutes in case of an emergency or other issue. If said contact information changes during the term of any short-term rental license issued, the licensee shall notify the city and provide current contact information, within five (5) business days of said change.

(b) A city inspector shall certify to the city clerk, in coordination with the Planning & Zoning Department, that the short-term rental unit meets the following minimum safety and welfare standards:

- (i) Interconnected smoke alarms are present and operational in all rooms intended for sleeping purposes, immediately outside of each sleeping area and in each story within the short-term rental unit, including basements and cellars. Smoke alarms will be maintained in working order.
- (ii) Carbon Monoxide detectors are present and operational on each level of the short-term rental unit with fuel burning appliances, attached garages or a fuel burning appliance within one floor of the short-term rental unit. Carbon Monoxide detectors will be maintained in working order.
- (iii) All areas used for sleeping purposes have two means of egress in working order unless an approved sprinkler system is installed.
- (iv) The short-term rental unit's street address numbers are plainly visible from the street at all times.
- (v) Property is in a clean, safe and sanitary condition. All furnished appliances, finishes, windows, doors, handrails, guardrails, plumbing drains and fixtures, mechanical systems and electrical systems are in good working order in accordance with the inspection checklist. The property shall be maintained in a clean, safe and sanitary condition and the licensed premises shall otherwise comply with applicable building regulations in this Code.

(c) The applicant shall provide proof of possession of the licensed premises, either by deed or lease. If the applicant does not own the property where the licensed premises are located, the applicant must provide written documentation from the property owner allowing short-term rentals on the licensed premises.

(d) Applicant shall acknowledge and pay all city, county, state, and federal taxes,

as applicable.

(e) An annual license fee as set forth in Section 2-5 of this Code shall be charged for each license issued.

(f) All licenses issued under this article shall be valid for a period of one (1) year from the date of issuance. Applicant shall be responsible for application for a renewed license and payment of the license fee. Applicant may apply for renewal of license up to thirty (30) days prior to expiration.

**(3) Revocation or denial.**

(a) The City Clerk, with recommendation from the Planning & Zoning Department, may revoke any license issued under this article if:

- (i) The licensed premises is the subject of three (3) or more verified complaints of noise or other disturbance in the course of twelve (12) consecutive months;
- (ii) The licensed premises no longer satisfy the minimum health and safety requirements of this Code;
- (iii) The licensed premises are otherwise determined to be uninhabitable;
- (iv) The applicant fails to permit entrance of a city inspector following complaint or outside visual inspection pertaining to the health and safety requirements of this Code; or
- (v) The applicant fails to pay the annual license fee.

**(4) Penalty for violations.**

(a) Any person upon whom a duty is placed by the provisions of this article who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this article, shall be punished by a fine not exceeding five hundred dollars (\$500.00), and such violator may be committed to the city or county jail until such fine and costs of prosecution are paid. Each day that a violation of this article continues shall constitute a separate and distinct offense and shall be punishable as such. The city is authorized to take such other actions as allowed by law to enforce this article.

**44-1603. Family care homes.**

Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) Family Care Home shall mean a home operated for rehabilitation and/or habilitation purposes and licensed by the state to provide residential services to one individual per 300 square feet of living area plus residential staff, who need not be related to each other or to the residential staff, and which home provides some services which meet needs beyond a basic provision of food and shelter.

(2) Authorized shall mean a family care home, as defined by this code, is permitted as a use in all districts within the City's jurisdictional boundaries which are zoned for residential use, subject to all provisions of this code relating to family care homes.

(3) Building, fire, health, and safety standards shall mean a family care home shall meet all minimum building, fire, health, and safety standards set by state and local laws and regulations applicable to such a home.

(4) License shall mean a family care home shall be not constructed or operated until the agency, organization, or institution supervising such a home certifies to the

Planning and Zoning Administrator that the family care home and its operation have met all licensing requirements of the certifying agency.

**44-1604. Home occupations.**

(1) Restrictions and limitations. A home occupation may be carried on in a dwelling unit or accessory building under the following conditions:

(a) No person other than members of the family residing on the premises shall be engaged in such occupation.

(b) The use of the dwelling unit for the one occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The maximum allowable area that may be utilized in conducting such home occupation shall be equal to 25% of the floor area of the dwelling unit.

(c) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one sign, not exceeding three square feet in area, non-illuminated and mounted flat against the wall of the principal building.

(d) The maximum allowable area that may be utilized in conducting a home occupation in an accessory building shall not exceed 200 square feet.

(e) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

(f) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuation in the line voltage off the premises.

(g) No outdoor storage of materials or equipment used in the home occupation shall be permitted.

(h) After December 31, 1996, all home occupations must be registered and a permit must be received from the office of the Building Inspector.

(2) Particular home occupations permitted. Customary home occupations include, but are not limited to, the following list of occupations; provided however, that each listed occupation is subject to the requirements of subsection (1) of this section:

(a) Art, dancing, and music schools, provided that instruction is limited to five pupils at one time.

(b) Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, and similar professions.

(c) Offices for realtors, insurance agents, brokers, sales representatives, and manufacturing representatives when no exchange of tangible goods is made on the premises.

(d) Radio, television, VCR/CD, recorder, and small appliance repair services.

(e) Home crafts and hobbies such as model making, rug weaving, lapidary work, cabinetmaking, and the like.

(f) Tailoring, alterations, and seamstresses.

(g) Saw filing.

(h) Beauty parlor or barber services.

(i) Auto detailing.

(3) Particular home occupations prohibited. Permitted home occupations shall not in any event be deemed to include:

(a) Mortuaries or funeral homes.

(b) Restaurants.

(c) Stables or kennels.

(d) Antique shops.

(e) Physicians, dentists, or other licensed medical practitioners.

(f) Auto repair.

(g) Small engines/engine repair.

**44-1605. Temporary uses.**

(1) Contractors' offices. Contractors' offices and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project and to continue only during the duration of such project.

(2) Real estate offices. Real estate offices (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing development to continue only until the sale or lease of all dwelling units in the development.

(3) Seasonal sales. Seasonal sale of farm produce grown on the premises in an agricultural district. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used.

(4) Carnivals and circuses. A carnival or circus, but only in a nonresidential or in an agricultural district, and then only for a period that does not exceed three weeks. Carnivals and circuses shall be approved by the City Council. Such uses need not comply with the front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall conform to the requirements of the sight triangle as defined by these regulations.

(5) Garage or yard sales. The sale of personal items on an infrequent basis at a residential use. Sales shall be limited to no more than three days in any one-month period and no more than three sales per year. Sales shall be conducted on the owner's or renter's property and not on or within the public right-of-way.

(6) Fireworks. The sale of controlled pyrotechnics or explosives permitted under state and local regulations for the purpose of celebrations or festivals. Fire and safety regulations and section 18-103 shall apply.

**ARTICLE 17  
DESIGN STANDARDS**

Section.

44-1701. Area, yard, and height requirements.

- 44-1702. Corner visibility.
- 44-1703. Group projects.
- 44-1704. Loading and unloading.
- 44-1705. Manufactured homes.
- 44-1706. Parking.
- 44-1707. Projections.
- 44-1708. Signs awnings and billboards.
- 44-1709. Telecommunication towers.
- 44-1710. Townhouse and townhouse structure.
- 44-1711. Perimeter Boundary Fencing.
- 44-1712. Primary use utility structures constructed as a special use.
- 44-1713. Portable Storage Structures.

**44-1701. Area, yard, and height requirements.**

(1) Lot of record. Where the owner of a lot of official record in any district prior to November 8, 1967, or his or her successor in title does not own sufficient contiguous land to enable him or her to conform to the minimum lot size requirements of this chapter, such lot may be used as a building site provided that said lot requirements are not reduced below the minimums specified in this chapter by more than 20%. If, however, the owner of two or more adjoining lots with insufficient land dimensions decides to build on or sell said lots, he or she must first combine said lots to comply with the dimensional requirements of the chapter. Any lot requiring dimensional variances below the 20% minimum set forth in this section may request a variance of the Board of Adjustment.

(2) Setbacks. The front yard depth requirements of this chapter for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within 100 feet on either side of the proposed dwelling is less than the minimum required front yard depth; provided, said buildings are on the same side of the same block, in the same use district, and fronting on the same street as said lot. In such case the setback on the lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots, or a distance of ten feet from the street right-of-way line, whichever is greater.

(3) Side yard. The required side yard setback shall be maintained on each side of a dwelling, but such setback may be reduced to 10% of the lot width on lots of less than 60 feet in width; provided, however, that no setback be less than five feet. For the purpose of side yard regulation, a two-family or multiple-family dwelling shall be considered as one building occupying one lot. An accessory building or addition to an accessory building to be constructed in the rear yard area shall be no closer than five feet from the main structure nor two feet from any other accessory building on that lot. Attached garages are considered as part of the principal building and must comply with all minimum yard requirements. Carports, with a minimum of three open sides, no walls, may be constructed with a minimum of five feet side yard setback. Carports with a minimum of three open sides, no walls, may be constructed with a minimum of two feet side yard setback if said carport is constructed of noncombustible materials and detachable from the principal residence. For the purposes of this section, detachable shall mean that the carport has a separate roof which can be removed without structural modification of the adjoining residence.

(4) Rear yard depth. The required rear yard for a principal building may be reduced to 20% of the depth of the lot on any lot not exceeding 100 feet in depth. An accessory building may be built within a required rear yard when occupying not more than 30% of the area of the required rear yard.

(5) Height limitations. The height limitations of this chapter shall not apply to chimneys, cooling or water towers, elevators, bulkheads, fire towers, monuments, stacks, storage towers, tanks, spires, church steeples, radio towers, or necessary mechanical apparatus, except as otherwise provided in the vicinity of airports.

Statutory reference: Neb. RS 19-901

Historical reference: Am. Ord. 1044, passed 10-22-96

**44-1702. Corner visibility.**

On a corner lot in any residential district, no planting, structure, sign, fence, wall, or obstruction to vision between the range of three feet and eight feet in height, measured from the centerline of the street, shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said right-of-way lines, each of which is 35 feet in distance from the point of intersection.

**44-1703. Group projects.**

In the case of two or more buildings to be constructed on a plot of ground of at least two acres not subdivided into the customary streets and lots and which will not be so subdivided, the application of the terms of this chapter may be varied by the Planning Commission and City Council in a manner that will be in harmony with the character of the neighborhood, provided:

(1) Such uses are limited to those permitted within the zoning district in which the project is located.

(2) The overall intensity of land use is no higher, and the standard of open space is no lower, than that permitted in the district in which the project is located.

(3) The distance of every building from the nearest property line shall meet the front, side, and rear yard requirements of the district in which the project is located.

(4) If the property lies within or abuts upon a residential district and is to be used for a nonresidential purpose, there shall be a densely planted buffer strip at least ten feet in height along the rear and/or side lot lines abutting the residential properties. No such buffer shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining residential lot.

Statutory reference: Neb. RS 19-910

**44-1704. Loading and unloading.**

Every building or structure used for business, trade, or industry hereafter erected except in the (C-1) Business District – Central and the (H-1) Historical District shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley or, if there is no alley, to a street.

For the purpose of this section, an off-street loading space shall have minimum dimensions of 12 feet by 40 feet and an overhead clearance of 14 feet in height above the alley or street grade.

- (1) Retail businesses: one space for each 5,000 square feet of floor space.
- (2) Wholesale and industry: one space for each 10,000 square feet of floor space.

**44-1705. Manufactured homes.**

All manufactured homes located outside mobile home parks shall meet the following standards:

- (1) The home shall have not less than 900 square feet of floor area.
- (2) The home shall have not less than an 18-foot exterior width.
- (3) The roof shall be pitched with a minimum vertical rise of 2½ inches for each 12 inches of horizontal run.
- (4) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction.
- (5) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock.
- (6) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.
- (7) Nothing in this section shall be deemed to supersede any valid restrictive covenants of record.
- (8) The home must meet building code requirements adopted by the City.

**44-1706. Parking.**

Off-street automobile parking or storage space shall be provided on every lot on which any of the following uses are hereafter established in all districts except the (C-1) Business District – Central; or, provided that no parking space can be reasonably provided on the same lot, such space shall be provided with vehicular access to a street or alley; such use shall be equal in number to at least the minimum requirements for the specific use set forth herein. Parking spaces shall be allowed in any required yard except as provided by section 44-802(21) in the (C-4) Business District – Interstate Highway:

- (1) Vehicles sales and repair: one space for each two employees at a maximum employment on a single shift, plus two spaces for each 300 square feet of repair or maintenance space.
- (2) Automobile service station: two spaces for each gas pump plus three spaces for each grease rack or similar facility.
- (3) Bowling alley: two spaces for each alley, plus one additional space for each two employees.
- (4) Churches: one space for each five seats.
- (5) Elementary and junior high schools, both public and private: one space for each classroom and administrative office.
- (6) Hospitals: one space for each four patient beds plus one space for each staff or visiting doctor, plus one space for each four employees.
- (7) Mortuary or funeral homes: one space for each four seats in the assembly room or chapel.
- (8) Motels, tourist homes, or tourist courts: one space for each accommodation;



two additional spaces for employees.

(9) Offices - professional, business, or public, including banks: one space for each 200 square feet of gross floor area.

(10) Medical offices and clinics: four spaces for each doctor practicing at the clinic, plus one space for each employee.

(11) Places of public assembly and entertainment: one space for each four seats provided for patron use, plus one space for each 100 square feet of floor or ground area used for amusement or assembly, but not containing fixed seats.

(12) Residential dwellings: one space for each single-family dwelling unit and 1.5 spaces per multi-family dwelling unit.

(13) Retail businesses: one space for each 200 square feet of gross salesroom area.

(14) Sanitariums, rest homes, and similar institutions: one space for each six patient beds, plus one space for each staff or visiting doctor, plus one space for each four employees.

(15) Senior high schools and colleges, both public and private: one space for each five students for which the school was designed plus one space for each classroom and administrative office.

(16) Mobile home parks: one space for each dwelling unit.

(17) Wholesaling and industrial uses: one space for each two employees at maximum employment on a single shift.

#### **44-1707. Projections.**

Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except:

(1) The ordinary projection of sills, eaves, belt courses, cornices, and ornamental features may be permitted, but not to exceed more than 24 inches in any required yard.

(2) An open, uncovered porch or paved terrace may extend not more than ten feet into any required yard and not closer than five feet to any lot line.

(3) A carport may be constructed in the required front yard of R-1, R-1S, R-2, R-3 districts provided they meet the following criteria:

(a) Detachable meaning that the carport has a separate roof which can be removed without structural modification of the adjoining residence.

(b) Engineered to meet City snow and wind load requirements

(c) Pre-manufactured

(d) Flat roofed

(e) Non-combustible

(f) Non-galvanized

(g) Minimum 28 gauge steel

(h) Constructed entirely on private property and not on City right of way

(i) Completely open on three or more sides

(j) Constructed as a subordinate structure to an existing garage no wider than the driveway approach leading into the garage.

(k) Conforms to side yard setback requirements for a carport set forth in 44-1701 (3) of this code

(4) Open or enclosed fire escapes, fireproof outside stairways, and balconies may

be permitted, but may not project into a yard or court for more than 50% of the required yard.

**44-1708. Signs awnings and billboards.**

(1) Generally. Advertising signs shall not be erected, constructed, or altered except in compliance with the requirements and the regulations of the zoning district in which they are to be located.

Statutory reference: Neb. RS 19-901, 19-902

(2) Permits.

(a) Any person who desires to erect any awning or sign upon or projecting wholly or in part over any City property, or who desires to erect any billboard or to suffer it to remain on private property, shall file in the office of the City Clerk a written application for a permit to do so, giving full information as to size, weight, and character of the sign or awning, and the distance it will project outside the lot line, together with drawings or other data showing the method of securing and fastening the same, or giving the general construction specifications or description of the billboard.

(b) The Clerk shall forthwith refer said application to the Building Inspector and if he or she shall find that such sign shall not present a menace to the public passing along such thoroughfare, and that the building to which it is or will be attached is of sufficient strength and size to safely support the sign, or if a lighted sign, that it complies with this code, and if a billboard, that it complies with this code, the Building Inspector shall endorse his findings on said application to that effect and shall grant such permit. Any such permit shall be revocable at any time by the Building Inspector for cause.

(c) All such signs, awnings, or billboards shall be periodically inspected under the direction of the Building Inspector, and if it appears that any sign, billboard, or awning is insecure, unsafe, or that it fails to conform with the requirements of this code, then such sign, awning, or billboard shall be ordered by notice in writing to be made safe or removed forthwith by the person maintaining such sign, awning, or billboard, and on such person's failure, refusal, or neglect to comply with said order within three days, it shall be the duty of the Building Inspector to cause such awning, sign, or billboard, as the case may be, to be removed and the expense of such removal shall be charged to the person refusing to comply with such order or removal, and the costs may be collected by the City from such person the same as any other debt or liability.

(3) Location and specifications.

(a) Advertising signs shall not overhang public streets, alleys, or ways, except sidewalks in the (C-1) Business District – Central In which advertising signs overhanging the sidewalk shall not project or extend closer than two feet to the curb line, shall be no more than 12 inches below any marquee, shall be no more than 48 square feet maximum size, and shall not extend above the facade of the building on which they are erected by more than four feet.

(b) Advertising signs may be erected on the roof of any building only in a C-2 or C-4 zoning district within or outside the corporate limits and shall comply will all of the following conditions:

(i) Only one roof mounted sign per street frontage shall be allowed;

- (ii) The sign shall be illuminated from within. LED signs are permissible;
- (iii) Signs shall be no more than six (6') in height; and,
- (iv) Signs shall be no wider than 1/3 of the distance of the width of the roof no longer than 1/3 the distance of the length of the roof.

(c) Structural supports for free standing advertising signs shall not be exposed to public view, but shall be an integral part of the design of the advertising sign. Signs shall be structurally safe and in good repair, as determined by the Building Inspector, including those connected to a building facade. Signs shall not be located in such a manner as to obscure or otherwise interfere with the effectiveness of any existing business advertising, or an official traffic sign, signal, or device, or otherwise interfere with the driver's view of approaching, merging, or intersecting traffic, as determined by the Planning and Zoning Administrator.

(d) Signs shall not flash all elements simultaneously and shall not resemble any traffic sign, signal, or device. Revolving beacons are prohibited.

(e) All awnings erected or suffered to remain in the sidewalk space shall be of canvas on iron frames. All awnings shall be elevated at least 6½ feet at their lowest part from the top of the public sidewalk and shall not project over said sidewalk to exceed three-fourths of the width thereof. They shall be supported without posts by iron brackets or by an iron framework attached firmly to the building so as to leave the sidewalk wholly unobstructed thereby, provided that nothing herein shall be construed to prevent the owner of any building from constructing a substantial awning or marquee of noncombustible material supported without posts over the sidewalk space if located flush with the outer edge thereof and if a building permit shall have first been secured for the construction of the same. All awnings shall comply with all applicable zoning requirements now in effect or as may hereafter be enacted except as specifically exempted.

(f) Marquees shall not project or extend closer than two feet to the curb-line and the lowest part of any marquee shall be at least nine feet above the sidewalk or front doorsill, if no sidewalk is used.

#### (4) Political Signs.

(a) Temporary political signs may be placed upon City owned right of way only in a residential zoning district as hereinafter provided; and upon private property with the property owner's permission in any zoning district provided that the following terms and conditions are satisfied:

(i) Signs located in City owned right of way, in a residential zone, shall not exceed ten (10) square feet in area;

(ii) Signs located on private property, in any zone, shall not exceed thirty-two (32) square feet;

(iii) A deposit shall be filed in the Office of the City Clerk in the amount of \$100 dollars for an individual or committee placing more than ten (10) signs, but not more than twenty (20) signs and in the amount of \$200 dollars for an individual or committee placing more than twenty (20) signs. Such fee to be refunded upon satisfactory evidence that the signs have been removed from display;

(iv) Signs shall be placed on the interior side of the curb, sidewalk, or edge of the street if no curb or sidewalk;

(v) In order to maintain visibility at an intersection, no sign greater than three (3)

feet in height from the ground shall be placed closer than 35 feet from the back of the curb, or edge of the pavement if no curb exists, at an intersection;

(vi) Private property shall be limited to one (1) sign larger than 10 square feet but less than thirty-two (32) square feet in area.

(vii) Signs shall be placed no closer to a polling place than as prescribed by Nebraska State Statute;

(viii) Signs shall conform to Nebraska State Statute regarding placement in State owned right of way.

(ix) Permission must be obtained from the property owner abutting the City owned right of way prior to installing any signs in the right of way;

(x) Signs shall not be installed more than four (4) weeks in advance of any primary, general or special election and shall be removed within seven (7) days after the election day;

(xi) The provisions of this section shall apply to right-of-way owned by the City of Ogallala and to private property. In no case shall political signs be placed in City owned parks, parking lots or other City owned real estate;

(xii) Political signs shall be defined as temporary signs in support of or against a candidate or a proposition which is the candidate for or the subject of a general, primary or special election held in the City of Ogallala, Nebraska. The terms of this section shall not apply to permanent billboard signs that are permitted by special exception under section 44-603.

(xi) Political signs placed on City owned right of way that do not conform to the foregoing terms and conditions, or any political signs placed on any City owned park, parking lot or other City owned real estate, may be removed and disposed of by the City Manager or by City Employees designated by the City Manager of the City of Ogallala, Nebraska. Temporary political signs placed on private property that do not conform to the foregoing terms and conditions shall be deemed to be in violation of this chapter.

#### **44-1709. Telecommunication towers.**

(1) Definitions. For the purpose of this Section, the following terms shall have the meaning ascribed to them below:

(a) Abandonment shall mean:

(i) To cease operation for a period of sixty (60) or more consecutive days;

(ii) To reduce the affected radiated power of an antenna by seventy-five percent (75%) for sixty (60) or more consecutive days;

(iii) To relocate an antenna at a point less than eighty percent (80%) of the height of an antenna support structure; or

(iv) To reduce the number of transmissions from an antenna by seventy-five percent (75%) for sixty (60) or more consecutive days.

(b) Antenna shall mean any exterior apparatus designed for telephonic, radio, data, Internet or television communications through the sending and/or receiving of electromagnetic waves including equipment attached to a tower, pole, light standard or building for the purpose of providing personal wireless services including, for example, unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular," "paging," "enhanced specialized mobile radio," "low power mobile radio" and

"personal communications services" telecommunications services, and its attendant base station.

(c) Antenna Height shall mean the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the highest and lowest grades of the parcel shall be used in calculating the antenna height.

(d) Antenna Support Structure shall mean any pole, light standard, telescoping mast, tower, tripod or other structure which supports a device used in the transmitting or receiving of radio, telephonic or television frequency or television signals.

(e) Cell Site shall mean a tract or parcel of land that contains the telecommunications service facilities including any antenna, tower support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to telecommunications services.

(f) FAA shall mean the Federal Aviation Administration.

(g) FCC shall mean the Federal Communications Commission.

(h) Governing Authority shall mean the governing authority of the City, namely the City Council.

(i) Personal Wireless Service and Personal Wireless Service Facilities, as used in this Section, shall be defined in the same manner as in Title 47, United States Code, Section 332(c)(7)(C), as they may be amended now or in the future.

(j) Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including any antenna support structure, self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

(2) Exemptions. The following are exempt from the provisions of this Section and shall be permitted in all zones:

(a) Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.

(b) Antennas and related equipment no more than three (3) feet in height that are being stored, shipped, or displayed for sale.

(c) Radar systems for military and civilian communications and navigation.

(d) Wireless radio utilized for temporary emergency communications in the event of a disaster.

(e) Licensed amateur (ham) radio operations.

(f) Satellite dish antennas less than two (2) meters in diameter, including direct to home satellite services, when used as a secondary use of the property.

(g) Routine maintenance or repair of a personal wireless service facility and related equipment (excluding structure work or changes in height or dimensions of antennas, towers, or buildings), provided that compliance with the standards of this Section are maintained.

(h) Subject to compliance with all other applicable standards of this Section, a building permit application need not be filed for emergency repair or maintenance of a

personal wireless service facility until thirty (30) days after the completion of such emergency activity.

(3) Tower siting.

(a) It is the policy of the City of Ogallala to encourage co-location of new communications towers with existing towers or as part of suitable existing structures. All applications for approval of a communications tower location shall include evidence that all potential alternatives for location on existing towers have been explored and exhausted. Applicants may not be denied space on an existing tower within the City of Ogallala and its jurisdiction unless mechanical, structural, regulatory factors, or legitimate business expansions plans prohibit co-location.

(b) The applicant for a communications tower location is required to demonstrate as part of its application that the tower must be located on the proposed site in order to satisfy its function in the company's system. The applicant must also demonstrate that the proposed height is the minimum height necessary for the successful functioning of the tower.

(4) Tower Setback, Design, Maintenance and Height.

(a) Free standing towers shall be located so that the distance from the base of the tower to any adjoining property line or the supporting structure of a separate neighboring tower is a minimum of 100% of the tower height. The Planning Commission may recommend and the City Council approve a reduction to the setback with a special use permit if they determine that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.

(b) The tower installation shall be designed to be aesthetically and architecturally compatible with the built environment of the City of Ogallala. The City encourages efforts to hide towers or restrict their visibility from public right-of-way or neighboring properties. Associated support buildings shall be designed with materials that are consistent with those in the surrounding neighborhood.

(c) All tower installations shall maintain landscaped peripheral yards with a minimum depth of 35 feet from surrounding property lines. One tree shall be planted for every 500 square feet of required peripheral yard area.

(d) As part of the Special Use Permit approval process, the City Council may permit the tower to exceed the height restrictions otherwise allowable in the district.

(e) Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).

(f) Lights, signals and signs: No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, at the time of construction of the tower in cases where there are residential users located within a distance which is 300% of the height of the tower from the tower, then dual mode lighting shall be requested from the FAA. Lighting on towers shall not exceed the minimum requirements of the FAA or other regulatory agencies.

(g) Adequate security measures are required at the base of the tower to prevent vandalism or hazards resulting from casual access to the facility.

(h) Each year after a facility becomes operational; the facility operator shall conduct a safety inspection in accordance with the EIA and FCC Standards and, within sixty (60) days of the inspection, file a report with the City Manager. Submission of a FCC

required, and duly filed, safety inspection report, or the facility operator's maintenance reports for the prior twelve (12) months in the event no FCC report is required for such year, to the City Manager shall satisfy the requirements of this section.

(5) City Site Selection criteria in Evaluating Applications for Communications Towers.

(a) The City Council shall authorize towers and antennas as a special use in all zoning districts except the Central Business District but only after receiving the recommendation of the Planning Commission; after a public hearing; and subject to the conditions and protective restrictions set forth in section 44-1503 of the Municipal Code.

(b) Consistent with the policies of this Ordinance, the telecommunications company proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall demonstrate, using technological evidence, that the antenna must go where it is proposed in order to satisfy its function in the company's grid system. Further, the company must demonstrate by technological evidence that the height requested is the minimum height necessary.

(c) Applications for necessary permits will only be processed when the applicant demonstrates that it is either an FCC licensed telecommunications provider or has in place necessary agreements with an FCC licensed telecommunications provider for use or lease of the support structure.

(d) Personal wireless service facilities should be located and designed to minimize any impacts on residential property values. Sites should be placed in locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.

(e) Location and design of sites in all districts should consider the impact of the site on the surrounding neighborhood and the visual impact within the zone district. In residential districts and residential land use areas, the minimum lot size for towers shall be three acres.

(f) Applicants for a special use for a new tower shall file Federal Aviation Administration form 7460-1 (Notice of Proposed Construction or Alteration) and submit a copy of the FAA report to the City.

(6) Priorities for Siting. The following establishes the priorities for locating new communications facilities:

(a) Public property, (excluding parks, prairie, conservation or wildlife areas or historic structures).

(b) Appropriate existing structures, such as buildings, towers, water towers, and smokestacks.

(c) A-1 and A-2 districts that do not adjoin or adversely impact residential neighborhoods.

(d) Private non-residential property in C-2, C-3, C-4 and I-1 districts.

(e) Place antennas on multi-family residential structures exceeding thirty feet (30') in height in districts zoned R-2, and R-3.

(f) Residential districts only if locations for which a need has been demonstrated are not available on existing structures or in non-residential districts; and only on or in existing churches, parks, schools, utility facilities or other appropriate public facilities.

(g) An applicant for a new antenna support structure to be located in a residential zoning district shall demonstrate that a diligent effort has been made to locate the

proposed communications facilities on a government structure, a private institutional structure, or other appropriate existing structures within a non-residential zoning district, that due to valid considerations including physical constraints, or technological feasibility, no appropriate location is available. The telecommunications company is required to demonstrate that it contacted the owners of structures in excess of thirty feet (30') within a one-quarter mile radius of the site proposed, asked for permission to install the antenna on those structures and was denied for reasons other than economic ones. The information submitted by the applicant shall include a map of the area to be served by the tower, its relationship to other antenna sites in the applicant's network, and an evaluation of existing buildings taller than thirty feet (30'), towers and water tanks within one-quarter mile of the proposed tower.

**44-1710. Townhouse and townhouse structure**

(1) Permitted Land Use. A townhouse shall be restricted to residential use in which each unit shall be occupied by one family. Each unit shall be separated by vertical side common walls extending from foundation through roof without openings, and shall have at least two exposed exterior walls.

(2) Site Development Regulations.

(a) Minimum Site Area/"Foot Print" per Townhouse (square feet)	1250
(b) Minimum Lot Area (square feet)	3000
(c) Minimum Lot Width (feet)	50
(d) Minimum Yards (feet)	
(i) Front Yard	25
(ii) Side Yard	10
(iii) Street Side Yard	15
(iv) Rear Yard	25
(e) Maximum Height (feet)	35
(f) Maximum Building Coverage	45%

(3) Ownership and Maintenance of Common Open Space.

(a) Townhouses shall provide for ownership and maintenance of common open space. Common open space within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the City.

(i) Offer of Dedication. The City of Ogallala or Keith County shall have the first and last offer of dedication of undivided open space in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The City or County may, but shall not be required to accept undivided open space provided: (1) such land is accessible to the residents of the City; (2) there is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and (3) the City agrees to and has access to maintain such lands. Alternatively, the City or County may accept an easement subject to the above conditions.

(ii) Recorded Documents. The Plat shall be filed with the Keith County Register of Deeds within 90 days of approval by the Ogallala City Council. The Plat shall include all proposed amenities such as a club house, tennis courts, swimming pool, etc.

(iii) Homeowners Association. If not dedicated, the undivided open space and associated facilities shall be held in common ownership by a homeowners' association.



The association shall be formed and operated under the following provisions:

(4) The developer shall provide a description of the association, including its bylaws and methods for maintaining the open space.

(5) The association shall be organized by the developer and shall be operated with financial assistance from the developer, before the sale of any lots within the development.

(6) Membership in the association is automatic (mandatory) for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.

(7) The association shall be responsible for maintenance of insurance and taxes on undivided open space, enforceable by liens placed by the City or county on the association. The association may place liens on the homes or house lots of its members who fail to pay their association dues in a timely manner. Such liens may require the imposition of penalty interest charges.

(8) The members of the association shall share equitably the costs of maintaining and developing such undivided open space. Shares shall be defined within the association bylaws.

(9) In the event of a proposed transfer, within the methods here permitted, of undivided open space land by the homeowners' association, or of the assumption of maintenance of undivided open space land by a public agency, notice of such action shall be given to all property owners within the development.

(10) The homeowners' association may lease open space lands to any other qualified person, or corporation, for operation and maintenance of open space lands.

**44-1711. Perimeter Boundary Fencing.**

(1) For purposes of this section, perimeter boundary fencing shall be defined as a manmade fence that is located parallel to and within 5 feet of a property line that is intended to delineate a property line boundary.

(2) Persons desiring to construct a perimeter fence shall obtain a building permit.

(3) It shall be the responsibility of the applicant to show the location of all of the surveyed property corners pertaining to the fencing project.

(4) Fencing shall be located on private property and not on City right-of-way.

(5) Fencing located within a required side and rear yard in any zoned district shall be no higher than 6 (six) feet above adjacent grade.

(6) Fencing located in front yards in I-1 (Industrial Districts) shall be no higher than 8 (eight) feet above adjacent grade.

*Exception A: Fencing next to a neighboring retaining wall that is 2 feet or higher may be permitted to be a maximum of 8 (eight) feet in height provided that a structural analysis is completed.*

*Exception B: Correctional and detention facilities may have security fencing in excess of 6 (six) feet in height.*

- (7) Fencing located within a required front yard in all zoning districts except I-1 (Industrial Districts), shall be no higher than 4 (four) feet above adjacent grade.

*Exception: Public or private school play grounds and sport venues may have fencing no higher than 6 (six) feet.*

- (8) Permitted fencing materials shall include dimensional lumber, synthetic fencing materials such as plastic and vinyl, stone, brick, concrete, stucco, decorative wrought iron, split rail, chain link with a top rail to guard exposed tines. Materials other than those specified in this regulation may be approved by special exception.

- (9) Prohibited fencing materials include corrugated building panels, railroad ties, wire mesh, ranch-type livestock fencing, barbed wire fencing, and razor wire and electric-shock fences.

*Exception A: Corrugated building panels may be permitted in zoned C-2 Highway Business Districts and I-1 Industrial Districts.*

*Exception B: Ranch type livestock fencing is permitted in agricultural zoned districts and where specifically approved by City Council for livestock permits.*

*Exception C: Barbed wire and electric shock fencing are permitted in agricultural zoned districts and where specifically approved by City Council for livestock permits or deemed by the zoning official as being necessary for security purposes.*

*Exception D: Razor wire fencing is permitted in locations of correctional facilities for security purposes provided the razor wire is located on the interior of the fence and/or a minimum of 8 feet above grade.*

- (10) Fence installations shall have an appearance that looks identical on both sides or has the finished-favorable side facing towards the public street or neighboring property.
- (11) Fencing on corner lots in residential zones shall provide for corner visibility in conformance to Municipal Code 44-1702.

**44-1712. Primary Use Utility Structures Constructed As A Special Use.**

Primary use utility structures constructed as a special use in R-1S, R-2 and R-3 Zoning Districts shall conform to the following design standards:

- (1) Structures shall be constructed no higher than what is permitted for an accessory structure in the same zoning district.
- (2) A minimum of 50% of the required front yard shall be landscaped with organic or synthetic material similar to bluegrass, crushed rock, stone, pavers or a combination of all.
- (3) There shall be a minimum of two paved off street parking spaces provided entirely on private property outside of the structure.
- (4) Public sidewalks may be required on all or part of the property as a condition for approval of the special use.

**44-1713. Portable Storage Structures.**

Portable storage structure is defined as a manufactured storage pod with or without wheels that is designed to be transported to a site, unloaded and set on property. These structures are prohibited in all zoning districts except C-2, C-4, A-1 and I-1 zoning districts.

*Exception No 1: Storage pods located in C-2, C-4, A-1 and I-1 zoning districts shall be placed on a concrete slab or foundation. Pods that are connected to a utility shall be properly anchored to withstand local wind loads.*

*Exception No 2: Storage pods may be temporarily set on the ground in any zoning district for moving purposes or for construction purposes provided approval is allowed by a special permit for a specified time.*

*Exception No 3: This section may be waived by the City Manager in the event of a natural disaster or catastrophic event.*

**ARTICLE 18  
BOARD OF ADJUSTMENT**

Section.

- 44-1801. General procedure.
- 44-1802. Proceedings of Board.
- 44-1803. Powers and duties.
- 44-1804. Variances.
- 44-1805. Appeals to Board.
- 44-1806. Appeals from Board.

**44-1801. General procedure.**

It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the administrative official, and that such question shall be presented to the Board of Adjustment only on appeal. Appeal from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by Neb. RS 19-912.

**44-1802. Proceedings of Board.**

(1) The Board of Adjustments shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(2) The Board of Adjustments 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 a public record and be immediately filed in the office of the Board.

**44-1803. Powers and duties.**

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

(a) Administrative review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by any Planning and Zoning Administrator or agency based on or made in the enforcement of this chapter or any regulation relating to the location or soundness of structures.

(b) Interpretation; special questions. To hear and decide, in accordance with the provisions of this chapter, requests for interpretation of any map, requirement, or provision of the Zoning Ordinance.

(c) Variances; conditions governing applications; procedures. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this chapter, or by reason of exceptional topographical conditions or other extraordinary and exceptional situations or conditions of such piece of property, or exceptional and undue hardships upon the owner of such property, the Board of Adjustment may, upon an appeal of a decision relating to the property, authorize 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 chapter.

(2) In exercising the above-mentioned powers, the Board may, in conformity with the provisions of this chapter, 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.

(3) The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such Planning and Zoning Administrator, to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter.

**44-1804. Variances.**

(1) No variance shall be authorized by the Board unless it finds that:

(a) The strict application of this chapter would produce undue hardship.

(b) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.

(c) The authorization of the variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.

(d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variation for purposes of convenience, profit, or caprice.

(e) Such hardship does not result from the actions of the owner of such property.

(f) The granting of such variance will not confer on the owner of such property any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) 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 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.

(3) No nonconforming use of neighboring land, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.

(4) A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

(a) A written application for a variance is submitted indicating the terms of this chapter under which the variance is sought, stating the ground on which it is requested, and the specific variance requested.

(b) Notice shall be given at least ten days in advance of public hearing. The owner of the property for which variance is sought or his or her agent shall be notified by mail. Notice of such hearing shall be posted on the property for which variance is sought, at the City Hall, and in one other public place, at least ten days prior to the public hearing.

(c) The public hearing shall be held. Any party may appear in person, or by agent or attorney.

(d) The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance under the terms of this chapter, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(e) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards when made a part of the terms under which the variance is granted shall be deemed a violation of this chapter and punishable under section 44-2001.

(6) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved or any use expressly or by implication prohibited by the terms of this chapter in said district.

#### **44-1805. Appeals to Board.**

(1) Generally.

(a) Appeals to the Board of Adjustment concerning the interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision of the administrative official. Such appeal shall be taken within a reasonable time, not to exceed 60 days, or such lesser period as provided by the rules of the Board, by filing a notice of appeal with the administrative official and with the Board of Adjustment specifying the grounds for the appeal. The administrative official shall immediately transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(b) The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice and notice to the parties in interest of the appeal hearing, and decide the same within a reasonable time. At an appeal hearing, any party may appear in persons or by agent or attorney.

(2) Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him or her that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

**44-1806. Appeals from Board.**

Any person, board, taxpayer, department, or board of the City aggrieved by a decision of the Board of Adjustment may seek review of such decision by the district court for the county in the manner provided by the laws of the state.

**ARTICLE 19  
ADMINISTRATION AND ENFORCEMENT**

Section.

- 44-1901. Amendments.
- 44-1902. Annexations.
- 44-1903. Enforcement authority.
- 44-1904. Zoning certificates.

**44-1901. Amendments.**

(1) Generally. This chapter, including the Official Zoning Maps, may be amended from time to time, but no amendments shall become effective unless they have been proposed by, or been submitted to, the Planning Commission for review and recommendation. The Planning Commission shall have 30 days within which to submit its report to the Council. If the Planning Commission fails to submit a report within the 30 days, it shall be deemed to have approved the proposed amendment. A public hearing shall be held by the Planning Commission before adoption of any proposed amendment to this chapter. A notice of such public hearing shall be given once a week for two successive calendar weeks in a newspaper of general circulation in the City, said notice to be published the first time not less than 15 days prior to the date established for the public hearing.

(2) Application. In order to have a proposed change of district or amendment introduced and considered by the Planning Commission, persons requesting the same shall comply with the following:

(a) At the time an application for the change of a zoning district or amendment to the zoning text is filed with the Planning Commission, there shall be deposited with the City Clerk a fee as established by resolution of the City Council.

(b) An application for a change of district to a commercial district shall contain a minimum area of three acres. The area, should more than one parcel of land be involved, shall be contiguous exclusive of any streets or easements.

(c) An application for a change of district to an industrial district shall contain a minimum area of five acres. The area, should more than one parcel of land be involved,

shall be contiguous exclusive of any streets or easements.

(d) The foregoing requirements in subsections (a) and (b) will not apply in the case of an extension of a commercial or industrial district.

(e) A person presenting an application for a change of district shall not be entitled to have such change considered and acted upon by the Council unless and until the Planning Commission has certified that such change is not inconsistent with the principles of the Land Use Plan of the City.

(f) When an application for change of zoning district for a lot or parcel of land specifically described and identified has been submitted to and denied by the Council, a period of six months must elapse before the aforementioned lot or parcel, either separately or as a component of a larger parcel, can again be brought before the Planning Commission for further consideration.

(3) Public hearing. Before enacting an amendment to this chapter, the Council shall hold a public hearing thereon. At least ten days prior to the hearing, a notice containing the time and place shall be published in a newspaper of general circulation in the City. Additionally, notice shall be posted in a conspicuous place on or near the property on which action is pending. At the option of the Council, in place of the posted notice provided above, the owners or occupants of real estate within three hundred feet of the affected real estate may be personally served with a written notice thereof at least ten days prior to the date of the hearing if they can be served within Keith County, Nebraska. If the record title owners or occupants of any lots included in such proposed change are nonresidents of the county, then a written notice of such hearing shall be mailed by certified mail to such owners or occupants addressed to their last-known addresses at least ten days prior to such hearing. All notices provided for herein shall conform to the requirements of Neb. RS 19-904, 19-905 & 19-923.

(4) Protest. If a protest against such change is 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 thereto, extending 300 feet therefrom, and of those directly opposite thereto extending 300 feet from the street frontage of such opposite lots, the amendment shall not become effective except by favorable vote of three-fourths of all Members of the Council.

Statutory reference: Neb. RS 19-905

#### **44-1902. Annexations.**

(1) The City Council desiring to annex land under the authority of this section shall first adopt both a resolution stating that the City is considering the annexation of the land and a plan for extending City services to the land. The resolution shall state:

(a) The time, date, and location of the public hearing required below.

(b) A description of the boundaries of the land proposed for annexation.

(c) That the plan of the City for extension of City services to the land proposed for annexation is available for inspection during regular business hours in the office of the City Clerk.

(2) The plan adopted by the City Council shall contain sufficient detail to provide a reasonable person with a full and complete understanding of the intentions of the City for extending City services to the land proposed for annexation. The plan shall:

- (a) State the estimated cost impact of providing the services to such land.
  - (b) State the method by which the City plans to finance the extension of services to the land and how any services already provided to the land will be maintained.
  - (c) Include a timetable for extending services to the land proposed for annexation.
  - (d) Include a map drawn to scale clearly delineating the land proposed for annexation, the current boundaries of the City, the proposed boundaries of the City after the annexation, and the general land-use pattern in the land proposed for annexation.
- (3) A public hearing on the proposed annexation shall be held within 60 days following the adoption of the resolution to allow the City Council to receive testimony from interested persons. The City Council may recess the hearing, for good cause, to a future time and date specified at the hearing.
- (4) A copy of the resolution providing for the public hearing shall be published in the official newspaper in the City, at least once not less than ten days preceding the date of the public hearing. A map drawn to scale delineating the land proposed for annexation shall be published with the resolution. A copy of the resolution providing for the public hearing shall be sent by first-class mail following its passage to the school board of any school district in the land proposed for annexation.

Statutory reference: Neb. RS 16-117

**44-1903. Enforcement authority.**

The provisions of this chapter shall be enforced by the Planning and Zoning Administrator.

Statutory reference: Neb. RS 19-909, 19-913

**44-1904. Zoning certificates.**

(1) A zoning certificate shall be required to erect, construct, reconstruct, alter, maintain, or use any building or structure, or to use any land as herein specified. It shall be the duty of the Planning and Zoning Administrator to issue a zoning certificate if the building or other structure and the proposed use thereof, or the proposed use of the land or premises, conforms with all of the requirements herein set forth.

(2) To obtain a zoning certificate, the applicant shall submit the required documents established herein.

(a) An application on a form prescribed by the Planning and Zoning Administrator containing information sufficient to show compliance with the requirements of this chapter.

(b) A plat drawn to scale showing the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of existing buildings and structures, the lines within which the proposed building or structure and driveways shall be located or altered, the existing and intended use of the property, and such other information with regard to the lot and neighboring lots and their use as may be necessary to determine compliance with and provide for the enforcement of this chapter.

(c) In the Historical District (H-1), in addition to any other requirements set forth herein, the following criteria are also required:

(i) Appropriate drawings, plans, renderings, perspectives, or illustrations in sufficient number and detail to accurately depict the proposed design and architectural



character of any proposed development so that uniformity of design style can be established and adhered to.

(d) Where a zoning certificate is requested for a C-2 Business District – Highway or H-1 Historical District use, and said structure or use lies directly across a public roadway from an R-2 Residential District – High Density or immediately abuts any residential district, regardless if a roadway exists, a vegetative buffer of no less than eight feet in height shall be required along the entirety of the lot frontage facing said R-2 Residential District – High Density, except for egress and ingress points.

(e) In areas which are not served with public water or sewer, a certified statement that the proposed water and sewer facilities will be installed to conform to the minimum requirements of the State Department of Health.

(f) Any zoning certificate issued shall become invalid unless the work authorized by it shall be commenced within six months of its date of issue or if the work authorized by it is suspended or abandoned for a period of one year. A record of zoning certificates shall be kept on file in the office of the Planning and Zoning Administrator.

Statutory reference: Neb. 19-902

## **ARTICLE 20 PENALTY**

Section.

44-2001. Penalty.

### **44-2001. Penalty.**

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed \$1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than \$1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

(4) In case any building is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation of this chapter, the Planning and Zoning Administrator, or any other appropriate City authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction or mandamus or other appropriate action or proceeding to prevent such violation.

City of Ogallala, Nebraska

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720, 19-909, 19-913