CHAPTER 10
ZONING EGULATIONS
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SECTION 10-101. TITLE

A Comprehensive Zoning Code for the City of Terrytown is established as set out in this Ordinance. This Ordinance and any later amendments to it shall be known as the "Terrytown Zoning Code" and may be cited by that name.

SECTION 10-102. PURPOSE AND INTENT

This zoning code is intended to serve the following purposes:

1. To promote the health, safety, morals, comfort and general welfare of the City and its surrounding area; and

2. To preserve and protect property values throughout the City and its surrounding area.

3. To restrict and regulate the height, number of stories, and size of buildings and other structures; the percentage of lot coverage; the size of yards and other open spaces, and the density of population.

4. To divide the City and the area over which it has zoning jurisdiction into zoning districts.

5. To regulate and restrict the location and use of buildings and land within each district or zone.

6. To conform with objectives and policies of the Comprehensive Plan.

SECTION 10-103. GENERAL PROVISIONS

3.01. Jurisdiction: This Ordinance shall apply to the incorporated area of the City of Terrytown, Nebraska and that portion of the area outside of the City Limits which is within the area of planning and zoning jurisdiction as indicated on the Official Zoning Map of the City of Terrytown, as may be amended from time to time.

3.02. Districts: The following zoning districts are established:

"R-1" Low density Residential District
"R-2" High Density Residential District
"MH" Mobile Home District
"C" Commercial District
"RC" Recreational District"
"FP" Flood Plain District

3.03. Zoning Map: The boundaries of the districts are shown on the Official Zoning Map which is filed in the office of the City Clerk. The zoning map and all notations, references, and other information shown thereon, are as much a part of this Zoning Ordinance as if these notations, references, and other information were specifically set forth herein.

3.04. Rules Where Uncertainty May Arise: Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Map, incorporated herein, the following rules apply:

1. The district boundaries are the centerline of streets, alleys, and waterways, unless

otherwise indicated; and where the designation of a boundary line on the zoning map coincides with the location of streets, alleys, or waterways, the centerline of the streets, alleys, or waterways shall be construed to be the boundary line of the district.

2. Where the district boundaries do not coincide with the location of street or alleys, waterways, but do coincide with lot lines, this lot line shall be construed to be the boundary of the district.

3. Where the district boundaries do not coincide with the location of streets, alley, waterways, or lot-lines, the district boundaries shall be determined by the use of the scale shown on the zoning map.

3.05 Exemptions: The following structures and uses shall by exempt from the provisions of these regulations:

1. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas, or water, or the collection of sewage or surface water operated or maintained by a public utility but not including substations located on or above the surface of the ground.

2. Public signs, erected by or on behalf of a governmental entity.

3.06 Application of Regulations: The following general requirements shall apply to all zoning districts:

No building, structure, or land shall hereafter be used or occupied in whole or in part, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with the regulations.

3.07 Interpretation:

1. Minimum Requirements. In their interpretation and application, the provision of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

2. Overlapping or Contradictory Regulations. Where the conditions imposed by any provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these regulations or any provision of any other law, ordinance, resolution, rule or regulations of any kind, the regulations which are more restrictive shall govern unless specifically excepted.

3. Private Agreements. These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement or legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than the easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.

4. Unlawful Uses. The adoption of these regulations shall not be interpreted as retroactively legalizing a use or structure which was illegal under previous law.

3.08 Separability: It is hereby declared to be the intention of the City that the provisions of these regulations are separable, in accordance with the following rules:

1. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, the judgement shall not affect any other provisions of these regulations.

2. If any court of competent jurisdiction shall adjudge invalid the application of any provisions of these regulations to a particular property or structure, the judgement shall not affect the application of the provisions to any other property or structures.

3.09 Annexed Land: All land which may hereafter be annexed to the City of Terrytown shall be classified in the same distinct as it was in the County until otherwise changed by ordinance.

3.10 Zoning Procedure: The requirements of this Zoning Ordinance permit only those listed in each district under USE REGULATIONS. Any person desiring to use a property for some use other than the listed uses may request the Planning Commission to consider amending the regulations.

SECTION 10-104. RULES AND DEFINITIONS

4.01 Rules:

1. In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:

1. Words used in the present tense shall include the future tense.
2. Words in the singular number include the plural number, and words in the plural number include the singular number.
3. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
4. The word "shall" is mandatory, the word "may" is permissive.
5. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
6. The words "Board of Adjustment" shall mean the City of Terrytown Board of Adjustment.
7. Unless otherwise specified, all distances shall be measure horizontally.
8. The word "City" means City of Terrytown, Nebraska.
9. The abbreviation N/A means not applicable.
10. In the event that there is any conflict or inconsistency between the heading of a section, subsection, or paragraph of this Ordinance and the context thereof, the headings shall not be deemed to affect the scope, meaning, or intent of the context.
11. The words "City Council" shall mean the City Council of Terrytown, Nebraska.
12. The words "Planning Commission" shall mean the City of Terrytown Planning Commission.

2. Any word or phrase which is defined in this section, and used within this Ordinance, shall have the meaning as so defined whenever the word or phrase is used, unless the definition is expressly limited in its meaning or scope.

4.02 Definitions: For the purpose of this Zoning Ordinance, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise.

1. Accessory Building. A subordinate building which serves a function customarily incidental to that of the Principal Building. Customary accessory buildings include but are not limited to garages, carports, and small storage sheds. No accessory building shall be built upon a lot in any zone until construction of the principal building has begun.

2. Accessory Use. A subordinate use which serves a function customarily incidental to that of the main building. Customary accessory buildings include but are not limited to garages, carports, and small storage sheds.

3. Alley. A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property, and has a right-of-way which is 20 feet or less in width.

4. Alteration. Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another, shall be considered an alteration.

5. Animal hospital or Clinic. An establishment where animals are admitted principally for examination, treatment, board of care by a Doctor of Veterinary Medicine. (This does not include open kennels or runs.)

6. Automobile Service Station. Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where, in addition, the following services may be rendered and sales made, of this type of like nature and no other:

1. Sale and servicing of spark plugs, batteries, and distributors and distributor parts.
2. Tire servicing and repair, but not recapping or regrooving;
3. Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
4. Radiator cleaning and flushing;
5. Washing and polishing, and sale of automotive washing and polishing materials;
6. Greasing and lubrication;
7. Providing and repairing fuel pumps, oil pumps, and lines;
8. Minor servicing and repair of carburetors;
9. Emergency wiring repairs;
10. Adjusting and repairing brakes;
11. Minor motor adjustments not involving removal of the head or crankcase or racing the motor.
12. Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for automobile service station customers;
13. Provisions of road maps and other information material to customers; provision of rest room facilities.

Uses permissible at an automobile service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operation condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than

normally found in automobile service stations. An automobile service station is not a repair garage nor a body shop.

7. Automobile Wrecking Yard. Any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment as a result of dismantling or wrecking.

8. Basement. That portion of a building having more than one-half of its height below finished grade. This portion shall not be a completed structure, but shall serve as a substructure of foundation of the remainder of the building.

9. Bed and Breakfast. Any place of lodging that provides rented rooms to six (6) or fewer people for a period not to exceed seven (7) days per renter at a time, that is the personal residence of the owner, that is occupied by the owner at the time of rental, and in which the only meal served to renters is breakfast.

10. Block. Is an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or a lake, and which has been designated as such on a plat for description purposes.

11. Board of Adjustment. That Board which serves to hear and determine appeals and variances to the zoning regulations.

12. Boarding or Lodging House. A building other than a hotel or motel where, for compensation and by pre-arrangement for definite periods, meals, or lodging and meals, are provided for three or more persons, but not exceeding 20 persons. Individual cooking facilities are not provided.

13. Building Area. The portion of a lot remaining after required yards have been provided.

14. Building. Any structure designed or intended for the enclosure, shelter or protection of persons, animals or property. It is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings. A principal building including covered porches and paved patios, is a building in which conducted the principal use of the lot on which it is situated. In any Residential District, any dwelling shall be deemed to be the principal building on the lot which the same is situated.

15. Building, Height. The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top floor in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gabled, hip or gambrel roof.

16. Campground. Any premises where two (2) or more camping units are parked/placed for camping purposes, or any premises used or set apart for supplying to the public, camping space for two (2) or more camping units for camping purpose, which includes any buildings structures, vehicles or enclosure used or intended for use or intended wholly or in part for the accommodation of transient campers.

17. Camping Unit. Any vehicle, tent, trailer, or other movable shelter used for camping purposes.

18. Cat. Any feline species over six (6) months of age

19. Clinic. (See Medical, dental, or Health Clinic).

20. Collector Street. (See Street Network, Collector).

21. Common Open Space. An area of land or water or combination thereof planned for passive or active recreation, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

22. Common Sewer System. A sanitary sewage system in public ownership which provides for the collection and treatment of domestic effluents in a central sewage treatment plant which meets the minimum requirements of the Nebraska Department of Environmental Control for primary and secondary sewage treatment and which does not include individual septic tanks or portable sewage treatment facilities.

23. Common Water System. A water system which provides for the supply, storage and distribution or potable water on an uninterrupted basis and which is in public ownership.

24. Comprehensive Plan. Is the plan or series of plans for the future development of the City recommended by the Planning Commission and adopted by the City Council.

25. Conditional Use Permit. A Conditional Use Permit is a written permit issued by the Zoning Administration with the written authorization of the Board of Adjustment. This Conditional Use Permit provides permission under specific conditions to make certain conditional uses of land in certain zoning districts as stipulated under exceptions in each of the district zoning regulations.

26. Condominium. A single dwelling unit under individual ownership within a two- family or multiple dwelling unit structure.

27. Cul-De-Sac. Is a street having one end open to traffic and being terminated by a vehicular turnaround.

28. Day Care Center. A building or place where care, supervision, custody or control is provided for more than eight (8) unrelated children or adults for any part of a 24-hour day.

29. Day Care Home. A residence or building in which care, supervision, custody or control is provided for eight (8) or less unrelated children or adults for any part of a 24-hour day. Babysitting service for eight (8) or less infants shall be considered a day care home.

30. District. A section or sections of the area within the zoning jurisdiction of the City for which uniform regulations governing the use, height, area, size, density, and intensity of the use of buildings, land, and open spaces are established.

31. Dog. Any canine species over six (6) months of age.

32. Domestic Animal. Any Dog or Cat over six (6) months of age

33. Drive-In or Drive-Thru Restaurant or Refreshment Stand. Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises. These restaurants may be served by a drive through lane(s), a drive-up service window(s), or both.

34. Dwelling. Any building or portion thereof, not including mobile, cabin manufactured homes but including modular homes, which is designed and used exclusively for residential purposes.

35. Dwelling, Single Family. A dwelling having accommodations for and occupied exclusively by one family.

36. Dwelling, Single-Family Attached or Town House. A portion of a dwelling having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each dwelling may be sold independently of the other portions.

37. Dwelling, Two-Family. A dwelling on a single lot of record having accommodations for and occupied exclusively by two families, independently.

38. Dwelling, Multi-Family. A dwelling having accommodations for and occupied exclusively by more than two families, independently.

39. Dwelling for the Elderly and/or Handicapped. A two-family or multiple-family dwelling or multiple-family dwelling having accommodations for and occupied exclusively by elderly or handicapped residents and necessary maintenance personnel. Elderly residents are those people who are at least sixty-two (62) years of age. Handicapped persons are those people having an impairment which is expected to be of long, continuous and indefinite duration and is a substantial limitation to their ability to live independently.

40. Dwelling Unit. One room or rooms connected together, constituting a separate independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

41. Earth Sheltered Residence. A residence designed as a complete structure below or partially below ground level, which was not intended to serve as a substructure or foundation for a building.

42. Easement. Is a grant by the property owner to the public, a corporation, or persons of the use of a tract of land for a specified purpose or purposes.

43. Efficiency Unit. A dwelling unit having only one room exclusive of bathroom, water, closet compartment, kitchen, laundry, pantry, foyer, communicating corridor, closets, or any dining alcove. An efficiency unit shall be permitted only in a multi-family dwelling.

44. Exception. An exception is a use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. These uses may be permitted in the zoning districts as exceptions, if specific provisions for these exceptions are made within this Ordinance. (See Conditional Use Permits, Section 19).

45. Family. One person or more than one person related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four unrelated persons living together as a single housekeeping unit; plus, in either case, usual domestic servants. A family shall under no circumstances be construed as a boarding house, fraternity or sorority house, club, lodging house, hotel, or motel.

46. Floodway-Commission. A floodway whose limits have been designated and established by order of the Nebraska Natural Resources Commission.

47. Floodway-Selected. A floodway within the limits of a Commission Floodway is recognized by the Nebraska Natural Resources Commission as being subjected to a high degree of flood hazard.

48. Floor Area. Shall mean the gross area of the building measured from the external faces of the exterior walls or from the centerline of walls separating two buildings and shall include the following area:

1. The basement floor area.
2. The area of each floor of the structure.
3. The attic space having headroom of seven (7) feet or more.

49. Garage, Private. A detached accessory building of a portion of the principal building, used for the storage of not more than three motor driven vehicles per family occupying the residence.

50. Gasoline Service Station. (See Automobile Service Station).

51. Group Home. A facility licensed by the State of Nebraska in which at least four but not more than eight persons not including resident managers or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training, or counseling for the purposes of adaptation to living with, or rehabilitation from cerebral palsy, autism, or mental retardation.

52. Home Occupation. A business, profession, service or trade conducted for gain or support entirely within a residential building or its accessory structures. (See Section 12.06 for requirement).

53. Hotel or Motel. A building or portion thereof, or a group of buildings, used as a transient abiding place which may or may not serve meals and whether the establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court, tourist cabin, tourist court, or other similar designations.

54. Inoperable Motor Vehicle. A motor vehicle that is wrecked, dismantled, or unable to move under its own power; is impounded by a governmental agency; or is not currently licensed.

55. Institution. A building occupied by a non-profit corporation or non-profit establishment for public use.

56. Kennel - Boarding. Any place, area, building or structure where dogs (including those under one year of age) are boarded, housed, cared for, fed or trained by other than the owner.

57. Kennel - Breeding. Any place, area, building or structure where more than one dog is kept for purposes of breeding or raising for a fee.

58. Kennel. Any premises upon which is located more than four (4) Domestic Animals over the six (6) months of age.

59. Loading Space, Off Street. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to these vehicles when

required off-street parking spaces are filled. Required off-street loading space is not to be used as off-street parking space in computation of required off-street parking space.

60. Loop Street. A street having both ends terminating on another single street.

61. Lot. For purposes of this Ordinance a lot is a parcel of land of at least sufficient size to meet minimum zoning and subdivision requirements, for use, coverage, and area, and to provide yards and other open spaces as are herein required. The lot shall have frontage on an improved public street, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record, or of portions of lots of record; a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.

62. Lot, Corner. A lot abutting upon two or more streets at their intersection.

63. Lot, Depth of. The mean horizontal distance between the front and rear lot lines.

64. Lot, Double Frontage. A lot having a frontage on two non-intersecting streets.

65. Lot, Front. The front lot line of a lot shall be that narrowest dimension abutting a street right-of-way. In the case of corner lots with more than two (2) frontages, the administrative official shall determine the front yard requirements, subject to the following limitations:

a. At least one front yard shall be provided having the full depth required generally in the district; and
b. No other front yard on the lot shall have less than half the full depth required generally.

66. Lot, Rear. The rear of a lot shall be that side opposite the front of the lot.

67. Lot, Zoning. A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. The parcel may be a tract or may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.

68. Lot of Record. A lot which is a part of a subdivision the plat of which has been recorded in the office of the Register of Deeds, or a lot described by metes and bounds of the description of which was recorded in the office of the Register of Deeds prior to the adoption of these regulations.

69. Major Recreation Equipment. Major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers and the like, and shall include the term Recreational Vehicle.

70. Manufactured Home. A dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly as the building site, bearing a seal certifying that it is built in compliance with the federal Manufactured Housing Construction and Safety Standards Code. Three types of manufactured homes (Type I, Type II, Type III) are defined based upon exterior appearance standards.

71. Medical, Dental or Health Clinic. Any building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or

ailments of human beings; including but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists and in which no patients are lodged overnight, but which may include an apothecary.

72. Mini-Warehouse. A building or group of buildings that contains varying sizes of individual, compartmentalized and controlled-access cubicles, stalls, bays or lockers for the dead storage of a customer's goods or wares.

73. Mobile Home. A transportable structure larger than three hundred and twenty (320) square feet in floor area, designed to be used as a year-round residential dwelling, and built prior to the enactment of the federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction on June 15, 1976.

74. Modular Home. Any prefabricated structure of conventional construction used for dwelling purposes moved on to a site in essentially complete constructed condition, in one or more parts and when completed, is a single-family unit on a permanent foundation, attached to the foundation with permanent connections. Modular Homes shall be considered single-family dwellings for the purposes of this Ordinance. This does not include double-wide mobile homes.

75. Mobile Home Park. Any area of land upon which one (1) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on a permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devises. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons for living or sleeping purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of the mobile home park; and shall include any buildings, structures, tents, vehicles, or enclosures used or intended for use or intended wholly or in part for the accommodation of automobile transients.

76. Nonconforming Structure. A structure which does not comply with the lot size requirement or bulk regulations applicable to new structures in the zoning district in which it is located.

77. Nonconforming Use. An existing use of a structure or land which does not conform.

78. Nursing Homes or Convalescent Homes. An institution or agency licensed by the State for the reception, board, care, or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

79. Off-Street Parking. An area that is laid out for the purpose of parking motor vehicle of residents, customers, employees, or visitors and is not located on public right-of-way. Off-street parking shall be considered as an accessory use to the principal use for which the parking is provided and shall be provided. Off-street parking spaces shall not open directly on a public street but shall open directly on a driveway or aisle that is adequate to provide a safe means of access.

80. Parking Space. An all-weather surfaced area for the purpose of storing one parked automobile. For the purpose of this regulation, one parking space shall have a minimum width of 8 feet 6 inches and a minimum length of 19 feet. In computing off-street parking, additional area shall be required for access drives to each parking space.

81. Pedestrian Ways. Is a tract of land dedicated to pubic use, which cuts across a block to facilitate pedestrian access to adjoining streets or properties.

82. Permanent Wall Foundation. An exterior wall, constructed of concrete, concrete block, brick, stone or other equivalent masonry material, designed to resist frost action and to safely support a building. The wall shall be continuous around the perimeter of the building, but may have openings as are needed for doors, windows, and ventilators. Except when located upon solid rock, the foundation wall shall extend twelve (12) inches below the frost line. The wall shall be a minimum of eight (8) inches thick or not less than the thickness of the wall being supported, whichever is the greater. The wall shall be set on a footing which shall be a minimum of sixteen (16) inches in width and seven (7) inches in depth for an eight (8) inch or wider wall. The foundation wall shall extend at least six (6) inches above the finished grade. Local soil conditions may dictate the need for a higher standard in order to adequately support the building and it is the responsibility of the owner to meet that higher standard if necessary.

83. Planning Commission. The Terrytown Planning Commission.

84. Planned Development. Special development of certain tracts of land, planned and designed as a unit for one of more land uses under the regulations and procedures contained in this Ordinance and as approved by the City Council.

85. Private Club. A non-profit association of persons who are bona-fide members paying annual dues, which owns, hires or leases a building or premises, or portion thereof, the use of the building or premises being restricted to members and their guests. The affairs and management of private clubs are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. It shall be permissible to serve food and meals on the premises provided that adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed provided it is secondary and incidental to the promotion of some other common objectives by the organization, and further provided that the sale of alcoholic beverages is in compliance with the applicable federal, state, county, and municipal laws.

86. Professional Office. Any building or part thereof used by one or more persons engaged in the practice of law, accounting, architecture, medicine, engineering or other occupation customarily considered as a profession.

87. Public Utility. Any business which furnishes to the general public:

1. Telephone service,
2. Telegraph service,
3. Electricity,
4. Natural gas,
5. Water and sewer,
6. Any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state.

88. Recreational Vehicle. A vehicular-type unit built on or for use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use and which has its own motive power or is mounted or drawn by another vehicle, and which has a body width not exceeding eight (8) feet and a body length not exceeding forty (40) feet.

89. Recreational Vehicle Park. (See Campground).

90. Right-of-way. An area dedicated to the public use which provides vehicular and pedestrian access to adjacent properties.

91. Salvage or Junk Yard. A building or premise where junk, waste, inoperable motor vehicles or discarded and salvaged materials are bought, sold, bartered, exchanged, stored, baled, packed, disassembled, crushed, handled or prepared for recycling which shall include auto wrecking yards, but shall not include retail secondhand furniture stores.

92. Service Station. (See Automobile Service Station).

93. Sign. Any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, devise, or representation used as, or which is in the nature of, an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization, or business, but shall not include any display of governmental notice or official flag.

94. Signs, On-Site. A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

95. Signs, Off-Site. A sign other than an on-site sign.

96. Sight Triangle. An area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2-1/2 feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, 50 feet in each direction along the centerline of the streets. At the intersection of major or arterial streets, the 50-foot distance shall be increased to 100 feet for each arterial leg of the intersection.

97. Shipping Container. Any container, which may otherwise be known as a container, freight container, ISO container, shipping container, high-cub container box, C container, or container van, designed to store and move materials and products across various modes of the Intermodal Freight Transportation System.

98. Street. The traveled surface of a right-of-way.

99. Street Line. A dividing line between a lot, tract, or parcel of land and the contiguous street. The right-of-way line of a street.

100. Street, Marginal. A minor street which is parallel to and adjacent to an arterial street and which serves to reduce the number of access points to the arterial street and thereby increase traffic safety.

101. Street, Network.

1. Expressway: A street which provides fast and efficient movement of large volumes of traffic between areas and does not provide a land service function.
2. Arterial: A street which provides for through traffic movement between and around areas with direct access to abutting property, subject to necessary control of entrances, exits, and curb use.
3. Collector: A street which provides for traffic movement between arterial and local streets, with direct access to abutting property.
4. Local: A street which provides direct access to abutting land, and local traffic movement whether in business, industrial, or residential land.

102. Structure. Anything constructed or erected, the use of which requires a permanent

location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.

103. Structural Alterations. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration:

1. Attachment of new facade where structural supports are not changed.
2. Addition of fire escapes where structural supports are not changed.
3. New windows where lintels and support walls are not materially changed.
4. Repair or replacement of non-structural members.

104. Tavern. An establishment in which the primary function is the public sale and serving of alcoholic beverages for consumption on the premises, including establishments commonly known as key clubs, which are open, and in which alcoholic beverages are served only to members and their guests.

105. Trailer. (See Mobile Home).

106. Traveled Way. The portion of a roadway of a street or highway used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

107. Variance. A variance is a relaxation of the terms of this Zoning Ordinance where the relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship. As used in this Ordinance a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or used in adjoining zoning district or because of conditions created by the landowner.

108. City Council. The City Council of Terrytown, Nebraska.

109. Yard. A space on a lot that is open, unoccupied and unobstructed by buildings or structures form the ground upward.

110. Yard, Front. A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way and the front building setback line.

111. Yard, Rear. A yard extending across the full width of the lot, the depth of which is the least distance between a rear lot line and the rear setback line.

112. Yard, Side. A yard extending from the front yard, or front lot line where no front yard is required, to the rear yard.

113. Zone or Zoning District. (See District).

114. Zoning Administrator. The person or persons authorized and empowered by the City Council to administer the requirements of these zoning regulations.

115. Zoning Area. The area that is zoned as set out on the Official Zoning Map which is made a part of this ordinance by reference.

116. Zoning Regulations. The term zoning regulations shall mean the requirements stipulated in this ordinance and any amendments to it.

4.03 Rules Applicable to All Zones: For the purpose of this Zoning Ordinance, the following shall apply to all Zoning Districts.

1. Accessory Buildings:

1. **Placement.** No accessory building shall be built upon any lot until construction of the principal building has begun. An accessory building shall be located to the rear of the principal building, and; may not project beyond the rear of the principal building, provided, in the R-1 zoning districts, this requirement may be waived if the setback requirements are met. No accessory buildings shall be placed over easements or rights-of-way.

2. **Distance from other Buildings.** Unless attached to the Principal Building, an accessory building shall be located at least ten (10) feet from the principal building.

3. **Corner Lot** (A) An accessory building may project into the side yard nearest the rear lot line if it does not extend beyond the front yard setback of the principal building; and (B) If the vehicle entrance to the accessory building is from a side street, the accessory building must be set back from the side street property line a minimum of twenty (20) feet.

4. Anchor Requirement Accessory structures under 200 square feet shall be anchored to a four-inch concrete slab, pier footings, or secured by some other means approved by the Development Services Director or his/her designee.

2. Shipping Container

a. **Placement.** A shipping container may not be placed within the Site Triangle, easements, public rights-of-way, and setbacks, except: a shipping container may be placed temporarily in the front yard setback if the shipping container is being used for moving or relocating purposes.

b. **Size.** A shipping container shall not exceed eight (8) feet in width, nine (9) feet in height, or forty (40) feet in length.

c. **Non-permanent uses permitted:** Shipping containers may be permitted in all zoning districts of the City for non-permanent purposes provided below;

(1) A shipping container may be permitted for a maximum of 30 days for moving or relocating purposes; provided a valid permit is issued by the Development Services Department; or

(2) A shipping container may be permitted for the duration of the building permit if it is incidental to the permitted construction activities on the same lot. The shipping container shall be removed at the completion of the construction project or expiration of the building permit.

SECTION 10-105. "R-1" LOW DENSITY RESIDENTIAL DISTRICT

5.01 Intent. The intent of this district is to provide area for residential development including those uses which reinforce residential neighborhoods.

5.02 Permitted Uses. In District "R-1" no building, structure, land, or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Two-family dwellings.
3. Public parks, playgrounds, and schools.
4. Accessory buildings and uses customarily incidental to the above uses.
5. Home occupations as defined in Section 12.06.

5.03 Conditional Uses. The following conditional uses may be permitted subject to approval procedures outlined in this Ordinance:

1. Day care homes.
2. Day Care Centers.
3. Churches.
4. Cemeteries not including mausoleums.
5. Hospitals.
6. Library.
7. Telephone exchanges, electric substations or other similar public utilities.
8. Group homes.
9. Nursing or convalescent homes.
10. Funeral homes.
11. Condominiums.

5.04 Intensity of Use Regulations.

1. Minimum lot area: Single-family - 5,000 square feet; Two-family - 2,500 sq. ft/dwelling unit

2. Minimum lot width: 50 feet.

5.05 Height Regulations.

1. Maximum structure height: 35 feet.

5.06 Yard Regulations.

1. Front Yard: 25 feet.
2. Side Yard: Not less than 5 feet.
3. Side Street: Not less than 12.5 feet when a lot borders a street.
4. Rear Yard: There shall be a rear yard having a depth of not less than 20% of the depth of the lot, provided however, that the depth of the rear yard shall not be less than 15 feet.

SECTION 10-106. "R-2" HIGH DENSITY RESIDENTIAL DISTRICT

6.01 Intent. The intent of this district is primarily to provide living area within the City where development allows high density development of multi-family dwellings.

6.02 Permitted Uses. In District "R-2" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1. Two-family dwellings.
2. Multi-family dwellings.
3. Public parks, playgrounds, and schools.
4. Accessory buildings and uses incidental to those listed above.
5. Home occupations as defined in Section 12.06.

6.03 Conditional Uses. The following conditional uses may be permitted subject to approval procedures outlined in this Ordinance:

1. All conditional uses as permitted in an "R-1" District.

2. Governmental buildings.

6.04 Intensity of Use Regulations.

1. Minimum lot area: Single-family - 5,000 square feet; Two-family - 2,500 sq ft/dwelling unit

2. Minimum lot width: 50 feet.

6.05 Height Regulations.

1. Maximum structure height: 35 feet.

6.06 Yard Regulations.

1. Front Yard: 20 feet.
2. Side Yard: Not less than 5 feet.
3. Side Street: Not less than 12.5 feet when a lot borders a street.
4. Rear Yard: There shall be a rear yard having a depth of not less than 20% of the depth of the lot, provided however, that the depth of the rear yard shall not be less than 15 feet.

SECTION 10-107. AIRPORT ZONING; ENFORCEMENT

A. The location of various airport encroachment areas is within the zoning authority of the city. In order to properly enforce the Airport Zoning Regulations and protect air traffic at Western Nebraska Regional Airport, the City Council granted to the City of Scottsbluff Development Services Department authority to act as administrative agency and enforcement agency as it pertains to the enforcement of the airport zoning regulations only.

B. It shall be the duty of the City of Scottsbluff Development Services Department to enforce this ordinance; and said department is hereby appointed the administrative agency provided for in Neb. Rev. Stat. §3-319. The administrative agency shall have all the powers and perform all duties as provided by the Airport Zoning Act.

C. Applications for permits shall be made to the City of Scottsbluff Development Services Department upon a form furnished by it. Any application shall be promptly considered and granted or denied. Applications for action by the zoning Board of Adjustment shall be transmitted in accordance with the applicable provisions of the Airport Zoning Regulations, appropriate city ordinances and state law.
(Neb. Rev. Stat. §3-319) (Ord. No. 393, 1/7/10)

SECTION 10-108. "MH" MOBILE HOME DISTRICT

8.01 Intent. The intent of this district is primarily to provide living area within the City where development allows for mobile homes to be placed on privately owned or rented lots or in mobile home parks.
All references to mobile home in this Section shall, also, apply to manufactured homes.

8.02 Permitted Uses. Mobile Homes placed on lots in mobile home parks are subject to the following conditions:

1. The park shall be located on a well-drained site properly graded to ensure rapid drainage and freedom from stagnant pools of water.

   Mobile home parks in existence as of the date of Ordinance #386 shall have a maximum density of nine (9) mobile homes per gross acre, and a minimum area of two thousand five hundred (2500) square feet. Mobile home parks created after Ordinance #386 shall have a maximum density of seven (7) mobile homes per gross acre, and a minimum area of four thousand (4000) square feet shall be provided for each mobile home space. If Mobile Home lots are individually parceled, only one mobile home may be placed on a lot.

2. Each mobile home space shall have an average width of at least forty (40) feet and be clearly defined.

3. Mobile homes shall be located on each space so as to maintain a setback of not less than twenty-five (25) feet from any public street, highway right-of-way, or Residential District boundary; as to maintain a setback of not less than ten (10) feet from the edge of a park roadway, sidewalk, or rear boundary line of a manufactured home space; the boundary line is not common to any public street, highway right-of-way, or Residential District boundary; and as to maintain a setback of not less than five (5) feet from any side boundary line of a manufactured home space.

4. All mobile homes shall be so located to maintain a clearance of not less than twenty (20) feet between any mobile home or community building, except accessory buildings which comply with Section 12.02.

5. When private roadways are used, they shall be of not less than twenty-four (24) feet in width, including curbs on each side, provided, however, that no on-street parking is permitted. If parallel parking is permitted, the width shall be increased to thirty

(30) feet. All private roadways shall have unobstructed access to a public street.

6. All roadways and sidewalks within a mobile home park shall be paved and shall be adequately lighted at night. Sidewalks shall be four-inch-thick concrete, four feet wide and streets shall be four inches of asphalt and four inches of base or an equivalent thereto.

7. A community building may be provided which may include recreation facilities, laundry facilities, storm shelter, and other similar uses.

8. All mobile home parks shall be connected to a public water supply. The individual water service connections shall be provided at each space and the size, location and installation of water lines shall be in accordance with the requirements of the City Code and manufacturer's specifications

9. Individual sewer connections shall be provided for each mobile home space and shall be installed in accordance with the City Code. All mobile home parks shall be connected to a public sewer system.

10. All mobile homes shall be secured to the ground by tie downs and ground anchors in accordance with manufacturer’s specifications.

11. Electric, telephone and cable television services line shall be installed underground and shall be in accordance with City Codes and utility company specifications.

12. All mobile homes shall be installed in accordance with manufacturer’s specifications.

13. Each mobile home shall be skirted within thirty (30) days after placement in the park by enclosing the open area under the unit with a material that is compatible with the exterior finish of the mobile home.

14. The pads shall be a flexible surface with a minimum of five (5) inch thick gravel, stone or compacted surface, treated to discourage plant growth, constructed to discharge water, and edged to prohibit fraying or spreading of surfacing materials, or shall be a hard surface of a minimum of two, eighteen (18) inch wide concrete ribbons or slabs capable of carrying the weight and of sufficient length to support all blocking points of the mobile home with a proper surface between them for weed control.

15. No open storage of any unsightly material shall be permitted within the mobile home park.

16. A community building may be provided which may include recreation facilities, laundry facilities, storm shelter, and other similar uses.

17. All mobile home parks shall be connected to a public water supply. The individual water service connections shall be provided at each space and the size, location and

installation of water lines shall be in accordance with the requirements of the City Code and manufacturer's specifications

18. Individual sewer connections shall be provided for each mobile home space and shall be installed in accordance with the City Code. All mobile home parks shall be connected to a public sewer system.

19. All mobile homes shall be secured to the ground by tie downs and ground anchors in accordance with manufacturer's specifications.

20. Electric, telephone and cable television services line shall be installed underground and shall be in accordance with City Codes and utility company specifications.

21. All mobile homes shall be installed in accordance with manufacturer's specifications.

22. Each mobile home shall be skirted within thirty (30) days after placement in the park by enclosing the open area under the unit with a material that is compatible with the exterior finish of the mobile home.

23. The pads shall be a flexible surface with a minimum of five (5) inch thick gravel, stone or compacted surface, treated to discourage plant growth, constructed to discharge water, and edged to prohibit fraying or spreading of surfacing materials, or shall be a hard surface of a minimum of two, eighteen (18) inch wide concrete ribbons or slabs capable of carrying the weight and of sufficient length to support all blocking points of the mobile home with a proper surface between them for weed control.

24. No open storage of any unsightly material shall be permitted within the mobile home park.

SECTION 10-109. "C" COMMERCIAL DISTRICT

9.01 Intent. The intent of this district is to provide a zone which will accommodate the broad range of retail shopping activities and service and office uses normally found in a City.

9.02 Permitted Uses. In District "C" no building, structure, land, or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1. Accessory Uses.
2. Amusement places (indoors), including video game arcades, game machines, pool halls, and other similar establishments.
3. Animal hospital, clinics and kennels providing the establishment and runs are completely enclosed in a building.
4. Antique shops and stores, providing all merchandise is displayed and sold inside a building.
5. Apparel and accessory stores.
6. Art and art supply stores.
7. Artist studio.

8. Auditoriums and similar places of public assembly.
9. Automobile accessory and supply store.
10. Automobile and truck sales and services.
11. Automobile parking lots and garages.
12. Automobile sales.
13. Bakery and pastry shop.
14. Banks and other savings and lending institutions.
15. Barber shops, beauty shops, chiropody, massage or similar personal services.
16. Bicycle shops.
17. Books and stationary stores.
18. Bowling alleys.
19. Building materials, storage and sales.
20. Business and technical schools including schools for photography, dancing and music.
21. Business machine repair, sales and service.
22. Carpenter & cabinet shops.
23. Car Wash.
24. Cigar and tobacco store.
25. Clothing and costume rental.
26. Commercial recreation centers.
27. Custom dressmaking, millinery, tailoring and similar trades.
28. Day Care Center
29. Delicatessens and catering establishments.
30. Department stores.
31. Drug stores and prescription shops.
32. Dry cleaning and laundry plants.
33. Dry goods and notion stores.
34. Dry cleaning and laundry establishments.
35. Equipment Rental.
36. Feed and seed stores.
37. Fire stations, police stations and jails.
38. Fix-it shops (radio, television and small household appliances).
39. Florist and gift shops.
40. Frozen food lockers.
41. Funeral Homes & Mortuaries.
42. Furniture and home furnishing stores.
43. Government administrative buildings.
44. Greenhouse and nurseries, retail and wholesale.
45. Grocery stores.
46. Hardware stores.
47. Hobby, stamp and coin shops.
48. Hotels and motels.
49. Household appliance stores.
50. Interior decorator's shops.
51. Jewelry and metal craft stores and shops.
52. Leather goods and luggage stores.
53. Library and museums (public).
54. Light assembly and processing operations such as electronics, garment works, plate making, pattern shops and other similar uses.
55. Lock and key shops.
56. Machinery sales, service and storage.
57. Mail order catalog stores.
58. Manufactured & home sales & service.

59. Medical, dental and health clinic.
60. Medical and orthopedic appliances stores.
61. Meeting halls and auditoriums.
62. Messenger and telegraph service stations.
63. Miniature Golf.
64. Mini-warehouses.
65. Monument sales.
66. Motor vehicle sales and storage.
67. Motor vehicle repair service, provided that all work shall be performed and all materials shall be stored within an enclosed building; and provided further that all operable or inoperable motor vehicles determined to be a safety hazard or visual blight shall be screened from public view and access by a solid or semi-solid fence having a minimum height of six (6) feet.
68. Motor vehicle body shop, provided that all work shall be performed and all materials shall be stored within an enclosed building; and provided further that all operable or inoperable motor vehicles determined to be a safety hazard or visual blight shall be screened from public view and access by a solid or semi-solid fence having a minimum height of six (6) feet.
69. Municipal storage yards.
70. Music instrument sales and repair shops.
71. Newspaper offices.
72. Newsprint, job printing and printing supply stores.
73. Newsstands.
74. Offices and office buildings.
75. Office supply and office equipment stores.
76. Optician and optometrists.
77. Package liquor stores.
78. Paint and wall paper stores.
79. Parking lots and garages.
80. Parks and open spaces.
81. Pawn shops.
82. Pet shops.
83. Photographic equipment sales and supply stores.
84. Photographic studios.
85. Picture framing shops.
86. Plumbing, heating, ventilation, air conditioning and electrical shops including related fabrication.
87. Post office.
88. Printers.
89. Private clubs and lodges.
90. Public utility and public service uses as follows:
    a. Substations.
    b. Railroads.
    c. Telephone exchange, microwave towers, radio towers, television towers, telephone transmission buildings, electric power plants.
91. Radio and televisions stations.
92. Recreational vehicle parks.
93. Restaurants.
94. Service Stations.
95. Self-service laundries and dry-cleaning establishments.
96. Sewing machines shops and stores.
97. Shoe stores.
98. Shoe repair shops.
99. Sporting and athletic goods stores.

100. Storage and warehousing except for products of a highly explosive, combustible or volatile nature.
101. Stores and shops for the conduct of retail and service business similar to the uses listed in this section.
102. Tailor shops.
103. Tattoo Parlors, provided that the following are satisfied:
    a. Prior to operating a Tattoo Parlor, the operator/practitioner must first apply for and receive a permit and certificate of occupancy from the Development Services Director. The permits are subject to revocation if the permittee at any time fails to comply with the conditions set forth herein.
    b. The operator/practitioner must comply with any and all federal, state, and local regulations pertaining to the activity of tattoo artistry on the human skin.
    c. The operator/practitioner must submit to regular and/or unannounced inspections by the County Department of Health, and any other authority empowered to regulate such activities.
    d. All instruments and equipment must be cleaned and sterilized before use. Sterilization of equipment shall be accomplished by exposure to live steam for at least 30 minutes at a minimum pressure of 15 pounds per square inch, temperature of 240°F or 116°C.
    e. The operator/practitioner must positively identify each client and keep record of client's name, age, mailing address, and phone number and not dispose of such information for a period of at least ten years. Any transfer in ownership or operation of the business will result in revocation of the permit. All records shall be relinquished to the any authority empowered to regulate such activity at any time.
    f. The operator/practitioner shall comply with the OSHA (Occupation Safety and Health Act) blood borne pathogen rules as it relates to the disposition of hazardous waste materials. To prevent the cause and/or spread of infection or disease, any and all tattoo needles used for each client shall be disposed of properly and not reused.

9.03 Conditional Uses in "C".

1. Auto wrecking yards, junk yards, salvage yards and scrap processing plants, however subject to the following:

    a. Located on a tract of land at least 300 feet from a Residential District zone.
    b. The operation shall be conducted wholly within a noncombustible building or within an area completely screened from the streets to obscure the junk from view of the public.
    c. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently outside the enclosing building, the secured area or within the public right-of-way.
    d. Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the Fire Department except when prohibited by the State Board of Health.

2. Bottling works.
3. Carpenter, cabinet, plumbing and sheet metal shops.

4. Contractor's office and equipment storage yard.
5. Kennels.
6. Grain elevators.
7. Light manufacturing or fabrication establishments, which are not noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor, or smoke.
8. Manufacturing or storage of bulk oil, gas, and explosives.
9. Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise, or vibration.
10. Ready-mixed concrete and asphalt mix plants.
11. Sign painting and manufacturing.
12. Solid waste, disposal and processing sites which included landfills, incinerator, compactors, transfer stations and other similar functions.
13. Storage and warehousing of products highly explosive, combustible or volatile in nature.
14. Truck and rail terminals.
15. Welding and blacksmith shops.
16. Wholesale and retail establishments which handle products of a highly explosive, combustible or volatile nature.

9.04 Intensity of Use Regulations.

1. Minimum lot area: None.
2. Minimum lot width: None.

9.05 Height Regulations.

1. Maximum structure height: 35 feet. Provided the maximum height of a use permitted as a special exception and its accessory structures shall be 75 feet.

9.06 Yard Regulations.

1. Front Yard: None.
2. Side Yard: None.
3. Side Street: Not less than 12.5 feet when a lot borders a street.
4. Rear Yard: None.

9.07 Use Limitations.

1. Except as set forth herein, no outdoor storage, except the display of merchandise for sale to the public, shall be permitted.

    A. Shipping containers may be places permanently for onsite storage of material incidental to the permitted or accessory use of the lot in C zoning districts, provided;

        a. A building permit for its use is issued by the Development Services Department;

        b. The shipping container(s) are located in areas not generally utilized by customers of the business or is located where shipping and receiving are conducted on the lot;

        c. The shipping container(s) are maintained and kept in good repair with no holes or rust;

d. The shipping container(s) shall be adequately secured to prevent entry by unauthorized persons;

e. The shipping container(s) is painted so no signage or language is visible;

f. The shipping container(s) shall by placed on a level surface with a base of rock or concrete/pavement;

g. The shipping container is not connected to any City utility.

h. The shipping container(s) shall comply with all requirements for an accessory building.

i. The shipping container(s) shall not be used as a principal building.

2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
3. A solid or semi-solid fence, hedge or wall at least six (6) feet, but not more than eight (8) feet high, shall be provided adjacent to an adjoining Residential District unless the adjacent Residential District and the commercial development are separated by a street right-of-way. The fence or wall shall be maintained in good condition by the owner or owners of the property in a "C" District.

SECTION 10-110. “RC” RECREATIONAL DISTRICT

10.01 Intent. The intent of this district is to preserve, encourage, and facilitate passive and active recreation for the citizens of Terrytown, by providing open areas, parks, and planned, integrated recreational centers.

10.02 Permitted Uses. In District “RC” no building, structure, land, or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1. Auditoriums and meeting rooms
2. Archery ranges
3. Baseball and softball facilities
4. Basketball count
5. Batting cages
6. Fishing lakes and ponds
7. Football fields
8. Golf driving range
9. Golf pitch and put courses
10. Lakes
11. Laundry facilities
12. Lawn and court games
13. Libraries, museums, or facilities for municipal, county or other governmental services
14. Miniature golf courses
15. Nursery school, Day Care Center, head start or other educational facilities; provided they are operated in conjunction with the recreation facilities
16. Parks and open spaces

17. Picnic and barbecue facilities
18. Playgrounds
19. Non-profit recreational centers
20. Senior or youth activity centers
21. Skating rinks
22. Swimming pools or natatoriums
23. Storm shelters
24 Tennis courts
25. Volleyball courts
26. Walking, running, and biking paths

10.03 Incidental Uses in "C"

1. Parking and driveway areas relating to Permitted Uses
2. Office space or storage incidental to any Permitted Use

10.04 Conditional Uses in "C"

1. Private Clubs and lodges
2. Medical Dental, or Health Clinics

10.5 Intensity of Use Regulation.

1. *Minimum lot area: None.*
2. *Minimum lot width: None.*

10.06 Height Regulations

1. Maximum structure height: 35 feet. Provided the Maximum height of a use permitted as a special exception and its accessory structure shall be 75 feet.

10.07 Maximum Lot Coverage

1. Maximum lot coverage, including all building, structures, and accessory buildings shall occupy no more than 50% of the total lot area.

10.08 Use Limitations

1. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

SECTION 10-111. "FP" FLOOD PLAIN DISTRICT

11.01 Intent. The intent of this district is to provide an area susceptible to flooding, and to provide uses which will not be hindered or severely affected should flooding occur.

11.02 Permitted Uses. In the "FP" District, no structure, land, or premises shall be used and no structure shall be erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1. Agricultural uses such as general farming, pasture, nurseries, and forestry.
2. Mining of sand and gravel.
3. Radio and television towers.
4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, pathways, hiking and biking trails, nature trails, wildlife and nature preserves.

Provided, any uses must also comply with City Ordinance No. 221 concerning Floodway and Floodway Fringe Districts or any successor ordinance concerning those districts.

11.03 Intensity of Use Regulations.

1. Minimum lot area: None.
2. Minimum lot width: None.

11.04 Height Regulations.

1. Maximum structure height: None.
2. Yard Regulations. Front Yard: None.
3. Side Yard: None.
4. Rear Yard: None.

SECTION 10-112. SUPPLEMENTARY DISTRICT REGULATIONS

12.01 Height Regulations

Chimneys, cooling towers, elevator head-houses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, and spires, church steeples, radio and television towers, antennas or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the District Regulations.

12.02 Yard Regulations

1. Front Yards. The front yards in Residential Districts only ("R-1" and "R-2") shall be adjusted in the following cases:

a. Where 50 percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have observed a front yard either greater or smaller than required then:

(1) Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of adjacent building on the two sides, or

(2) Where a building is to be erected on a parcel of land that is within 200 feet of an existing building on one side only that is set back greater than required, building shall be erected in line with the existing adjacent building.

2. Accessory Buildings.

a. No accessory used, buildings or structures shall be erected in any required front or side yard, and no detached accessory building shall be erected closer than five (5) feet to any other building, except as provided under subsection (c) below.

b. Accessory buildings may be located in the rear yard, but shall not be closer than three (3) feet to the rear or side lot line; except that unless otherwise specifically permitted, any accessory building requiring vehicle access from an alley way shall be located a minimum of five (5) feet from the rear property line. All accessory buildings on a lot collectively shall not cover more than thirty (30) percent of the required rear yard. In addition, no accessory building shall be constructed upon a lot until the construction of the Principal Building has been started. Finally, no accessory building shall be used for dwelling purposes.

c. A carport may be attached to the side or rear of any main residence. If the carport is open on two sides and built of non-combustible materials, it may be built to the interior property line. The interior lot line side of the carport shall not be enclosed. Detached accessory garages or carports shall not exceed a three-car capacity or floor dimensions of 36' x 24' and shall not exceed eighteen (18) feet in height.

d. Detached accessory storage buildings for residences shall not have area dimensions exceeding 180 square feet in gross floor area, shall be permanently anchored to a foundation, and shall not exceed eighteen (18) feet in height.

12.03 Number Of Structures And Uses On A Zoning Lot

1. With respect to "R-1", "R-2", and "OMH" Districts, only one principal use and structure may be located on a lot or tract except that this shall not prohibit allowable home occupations.

2. With respect to "C" Districts, more than one principal use and structure may be located upon the lot or tract, but only when the building or buildings conform to all requirements for the district.

12.04 Sight Triangle

On a corner lot in all districts, except "C" Districts, development shall conform to the requirements of the sight triangle as defined in Section 4.02.

12.05 Access To Commercial District

No land which is located in a Residential District shall be used for a driveway, walkway or accessway to any land which is located in a "C" District.

12.06 Home Occupations

Home occupations, where permitted, shall be subject to the following:

1. Restrictions and Limitations.

a. The home occupation shall be incidental and subordinate to the principal residential use of the premises and not more than twenty-five percent (25%) of the floor area of any one floor of a dwelling unit, or one room, whichever is the smaller, shall be used for a home occupation.
b. No outdoor storage of materials or equipment used in the home occupation shall be permitted.
c. No alteration of the exterior of the principal residential building shall be made which changes the character as a residence. The home occupation shall be carried on entirely within the principal residential structure.
d. No sign shall be permitted unless required by State Statue and, if required, shall not exceed two (2) square feet in area, shall not be illuminated, and shall be placed flat against the main wall of the building.
e. No person shall be engaged in a home occupation other than a person occupying the dwelling unit as their residence.
f. No equipment shall be utilized that creates a nuisance due to noise or electrical interference.
g. Parking needs generated by the conduct of a home occupation shall be provided off-street in an area other than the required front yard.

2. Particular Home Occupations Permitted. Permitted home occupations (not exclusive) which are subject to the above restrictions and limitations include:

a. Art, dancing, and music schools, provided that instruction is limited to five (5) pupils at one time.
b. Artists, sculptors, or authors.
c. Beauty and barber shops, and other services customarily performed by these shops such as manicures and hair removal salons.
d. Bed and breakfast services.
e. Family day care home, limited to not more than three (3) children at a time.
f. Home crafts and hobbies such as model making, rug weaving, lapidary work, cabinet making, etc.
g. Home party products.
h. Ministers, rabbis, priests, or members of religious orders.
i. Offices for salespersons, sales representatives and manufacturing representatives when no exchange of tangible goods is made on the premises.
j. Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, realtors, insurance agents, brokers, and similar professions.
k. Radio, television, phonograph, recorder, and small appliance and electronics repair service.
l. Saw sharpening.
m. Tailoring, alterations, seamstresses, shoe making, and shoe repair.
n. The letting for hire of not more than one (1) room for rooming or boarding use for not more than two (2) persons, neither of whom is a transient.

3. Particular Home Occupations Prohibited. Permitted home occupations shall not, in any event, include the following:

a. Animal hospitals and veterinary clinics.
b. Automobile and vehicle repair service.
c. Equipment rental.
d. Funeral services and mortuaries.
e. Machine shops, except as specifically allowed in Subparagraph 2 above.

f. Photo studios.
g. Physicians, dentists, chiropractors, and hospitals.
h. Restaurants.
i. Retail businesses, except as expressly permitted in Subparagraph 2 above.
j. Second-hand merchandise.
k. Stables or kennels.
l. Tourist homes, except bed and breakfast services as allowed in Subparagraph 2 above.
m. Welding.

12.07 Temporary Uses Permitted

1. Street Sales. The retail sales of merchandise not within an enclosed structure, in "C" Districts only, for a period not to exceed three (3) consecutive days in each calendar month. Street sales displays need not comply with the yard and setback requirements of these regulations, provided that no merchandise shall be displayed in the sight triangle.

2. Christmas Tree Sales. Christmas tree sales in "C" Districts only for a period not to exceed sixty (60) days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations, provided that no trees shall be displayed in the sight triangle.

3. Contractor's Office. Contractor's office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project and to continue only during the duration of the project.

4. Seasonal Sales. Seasonal sales of farm produce in "C" Districts only. Structures incidental to the 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. All permanent structures must comply with the front yard requirement.

5. Carnivals and Circuses. A carnival or circus, for a period that does not exceed three (3) weeks. Carnivals and circuses must be approved by the City Council. The use 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.

6. Garage, Yard, Basement or Porch Sales. The sale of used or secondhand merchandise shall be permitted in any district providing that the use shall not exceed three (3) consecutive days in duration nor shall it occur more than four (4) times each year at any particular location.

11.05 Area Requirements

In no case shall any structure be located on a lot less than 43,000 square feet in an area if it is not connected to a public sewer system.

11.06 Open Space

The storage of salvage or scrap materials, inoperable motor vehicles, household goods or furniture, or business equipment or materials for more than forty-eight (48) consecutive hours shall not be allowed in any Residential District unless the items are stored in a completely enclosed building and are clearly secondary to the primary use of the property.

12.10 Determination Of Building Setback Line

The building setback line shall be determined by measuring the horizontal distance between the property line and the vertical plane of the architectural projection of the existing or proposed structure nearest the property line.

12.11 Fences

Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:

1. No fence shall be constructed which will constitute a traffic hazard.
2. No fence shall be constructed in a manner or be of a design as to be hazardous or dangerous to persons or animals.
3. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation or which fence shall adversely affect the public health, safety and welfare.
4. No fence, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than:
    a. Front yard: three (3) feet for solid fence or 48" for open fences.
    b. All other yards: eight (8) feet in "C" Districts and six (6) feet in all other districts.

However, the City Council may, as a conditional use, authorize the construction of a fence which exceeds these heights if it finds the public welfare is not adversely affected and may authorize the construction of a solid fence higher than three (3) feet in the front yard if the City Council finds that a unique circumstance exists.

12.12 Recreational Vehicles

No recreational vehicle or camper shall be utilized for permanent living, sleeping or housekeeping purposes when parked on a residential lot or in any location not approved for the use.

12.13 Radio And Television Towers

Radio and television towers shall be permitted in the "C" or "FP" Districts as long as the height of the radio or television tower does not conflict with any airport approach or landing zone or with any other City ordinances. In all other districts, radio and television transmission towers may only be permitted as a conditional use.

12.14 Livestock And Poultry

No cattle, sheep, goats, swine, horses or any other animal commonly classed as farm stock; shall be kept, housed, penned or otherwise held in any district created by this Ordinance. Up to eight (8) hens may be allowed in the rear yard of single-family dwellings, provided the hens are kept behind a fence and within an enclosure of no more than 100 square feet.

SECTION 10-113. OFF-STREET PARKING REGULATIONS

13.01 Applicability

Off-street parking space, as required in this section, shall be provided for all new buildings and structures or additions and enlargements. The existing parking area previously required shall not be used to satisfy required off-street parking for any new structures or additions to existing buildings, structures, or uses of land unless the existing parking exceeds these requirements. The existing parking space shall be maintained and shall not be reduced so long as the main building, structure or use remains, unless an equivalent number of spaces are provided elsewhere as outlined within this section. Except that no off-street parking spaces shall be required for any use in any "C" District.

13.02 General Provisions

1. Utilization. Required accessory off-street parking facilities provided for the uses listed below shall be solely for the parking of operable motor vehicles of the patrons, occupants, or employees of these uses.

2. Residential Districts. Required off-street parking spaces may be located within the front yard in all Residential Districts.

3. Accessory Use. Off-street parking shall be considered as an accessory use to the use for which the parking is provided. Parking not located on the same tract as the main use must be located within the same zoning district in which parking or storage lots are permitted as a main use.

In no instance shall off-street parking required by this section be located more than 100 feet (as measured along lines of public access) from the use which it serves.

4. Repair Service. No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking facilities. This shall not restrict service required for a bona fide emergency with respect to a motor vehicle parked in the facilities.

5. Computation. When determination of the number of off-street parking spaces required by this regulation results in a requirement of a fractional space, the fraction of 1/2 or less may be disregarded, and a fraction in excess of 1/2 shall be counted as one parking space.

6. Mixed Uses. When a building or development contains mixed uses, the off-street parking requirements shall be calculated for each individual use and the total parking requirement shall be the sum of individual parking requirements.

13.03 Layout And Design Requirements

1. Area. A required off-street parking space shall be at least 8 feet 6 inches in width and at least 19 feet in length, exclusive of access drives or aisles, ramps, and columns
2. Access. Each required off-street parking space shall open directly upon an aisle or driveway of a width and design as to provide safe and efficient means of vehicular access to each parking space.
3. Design. Street parking spaces shall comply with the design standards relating to curb length, stall depth, driveway width, island width, barriers, and ingress and egress as contained in the Off-Street Parking Standards of this section.
4. Surfacing. All open off-street parking and loading areas, including driveways and aisles, shall be graded and provided with an all-weather surface.
5. Lighting. Any lighting used to illuminate off-street parking and loading areas shall be directed away from residential properties in such a way as not to interfere with the residential use.

13.04 Plans And Approval Required

Plans showing the layout of all required off-street parking and loading areas shall be submitted to and approved by the Zoning Administrator (see Section 16.01) prior to issuance of a building permit. Before approving any parking layout, the Zoning Administrator shall satisfy himself/herself that the spaces provided are usable and meet standard design criteria contained herein. All required off-street parking spaces shall be clearly marked.

13.05 Required Spaces

Off-street parking spaces shall be provided as follows:

1. Dwelling and Lodging Uses.

    a. Boarding or rooming houses: One parking space per sleeping room.
    b. Dormitories, fraternities, sororities: Two parking spaces for each three occupants based on the maximum design capacity of the building.
    c. Hotels and motels: One space per each rental unit plus one space per each two employees in the largest working shift and spaces as are required for restaurants, assembly rooms, and other affiliated provided.
    d. Manufactured homes and mobile homes: One parking space for each home.
    e. Nursing homes, rest homes, etc.: One parking space per each five beds based on the designed maximum capacity of the building, plus one parking space for each employee.
    f. Single-family and modular dwellings: One space per dwelling unit.
    g. Two-family and multiple-family: One space per dwelling unit.
    h. Dwelling units designed specifically for the elderly, one space per two dwelling units.

2. Business and Commercial Uses.

    a. Automobile, truck, recreational vehicle and mobile home sales and rental lots: One parking space for each 3,000 square feet of open sales lot area devoted to the sale, display and rental of the vehicles, plus one parking space

for each employee.

b. Automobile salvage yards: One parking space for each employee, plus one parking space for each 10,000 square feet of storage area.

c. Financial, business, and professional offices: One parking space for each 400 square feet of gross floor area.

d. Bowling alleys: Four parking spaces for each lane.

e. Cartage, express, parcel delivery and freight terminal establishments: One parking space for each two employees in the largest working shift in a 24-hour period, plus one parking space for each vehicle maintained on the premises.

f. Automobile wash: Three holding spaces for each car washing stall plus two drying spaces for each car washing stall.

g. Funeral homes and mortuaries: One parking space for each four seats based upon the designed maximum capacity of the parlor, plus one additional parking space for each employee and each vehicle maintained on the premises.

h. Furniture and appliance stores, household equipment or furniture repair shop: One parking space for each 400 square feet of floor area.

i. Manufacturing, production, processing, assemble, disassembly, cleaning, servicing, testing or repairing of goods, materials or products: One parking space per three employees based upon the largest working shift in any 24-hour period.

j. Medical and dental clinics or offices: One parking space for each 200 square feet of gross floor area.

k. Restaurants, private clubs and taverns: One parking space for 2.5 seats based on the maximum designed seating capacity; provided, that drive-in or drive- thru restaurants shall have a minimum of at least eight (8) parking spaces.

l. Retail stores and shops: One parking space per 300 square feet of floor area.

m. Service stations: One parking space for each employee plus two spaces for each service bay.

n. Theaters, auditoriums, and places of assembly, with or without fixed seats: One parking space for each four people, based upon the designed maximum capacity of the building.

o. Warehouse, storage and wholesale establishment: One parking space for each two employees based upon the largest working shift in any 24-hour period.

p. All other business and commercial establishments not specified above: One parking space for each 300 square feet of floor area.

3. Other uses.

a. Churches: One parking space per four (4) seats in the main unit of worship.

b. Hospitals: One parking space for each two beds, plus one parking space for each resident or staff doctor plus one space for each two employees based on the largest working shift in any 24-hour period.

c. Laundromats: One space for each two washing machines.

d. Nursery schools and day care centers, public or private: One parking space for each employee, plus one (1) space designated for loading and unloading.

e. Fraternal associations and union headquarters: One parking space for each three seats based upon the design maximum seating capacity.

f. Trade and commercial schools: One parking space for each three students and employees.

SECTION 10-114. SIGN REGULATIONS

Section

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1. Intent.

The regulations in this Article govern the type, location, and subject matter of signs and similar advertising media.

1.1 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined.
ANIMATION shall mean the movement of any object or light used in conjunction with a sign such as blinking, flashing, traveling, scrolling, or changing degree of intensity of any light movement other than burning continuously.
CHANGEABLE COPY SIGN shall mean any sign on which message copy can be changed through the use of attachable letters and numerals or by electronic switching of lamps, light emitting devices, or illuminated tubes. This includes public message displays or any sign which features automatic switching such as time and temperature signs.
COMMERCIAL SIGN shall mean any sign which serves to advertise and/or identify a product, service, or activity conducted on or off the premises on which the sign is located.
ELECTRIC SIGN shall mean any sign containing electrical wiring which is attached or intended to be attached to an electrical energy source, but not including signs illuminated by an exterior light source not an integral part of the sign.
ELECTRONIC CHANGEABLE COPY SIGN shall mean a sign containing a computer or digital software generated message or other automated or remote method of changing copy.
ERECTED shall mean attached, altered, built, constructed, reconstructed, enlarged, or moved and shall include the painting of wall signs.
FACADE shall mean that portion of any exterior elevation of a building extending vertically from the grade to the top parapet wall or eaves and horizontally across the building in one plane of elevation. A facade may extend above the roof line.
FADE shall mean a transition from one message to another by means of varying light intensity, where the first message gradually reduces intensity to the point of not being legible and/or gradually increases intensity to become legible.
FLASHING/BLINKING/PULSATING SIGN shall mean the interior or exterior of a sign which contains flashing lights or exhibits noticeable changes in light intensity with a basic on-off of the same light source or display pattern or which includes the illusion of intermittent or flashing light by means of animation, or an externally-mounted intermittent light source.
FREESTANDING SIGN shall mean any sign supported by structures or supports that are anchored in the ground and that are independent from any building or other structure, whether permanently fixed or movable, but does not include mobile signs.
HEIGHT OF A SIGN shall mean the distance between the lowest grade level within two feet of either side of a sign, and the highest part of the sign or its support; except that if the property was lower than the adjacent roadway, then the height of the sign is to be calculated from the street grade at a ninety-degree angle from the sign.
ILLUMINATED SIGN shall mean any sign which is directly lighted by any electrical light source, internal or external, regardless of technology. This definition shall not include signs which are illuminated by street lights or other light sources owned by any public agency or light sources which

are specifically operated for the purpose of lighting the area in which the sign is located rather than the sign itself.
MARQUEE (canopy or awning) shall mean a protective shelter or overhang which projects more than twenty-four inches from the face of a building that is otherwise permitted by code or ordinance.
MARQUEE SIGN shall mean a sign attached to the face or on top or below a marquee.
MOBILE SIGN shall mean a sign designed and constructed to be transported by its own wheels. When placed, a mobile sign must be supported by at least four integral metal supports which raise the wheels off the ground. Such sign shall not exceed ten feet in height.
MONUMENT SIGN shall mean any freestanding sign in which the top edge of the sign is six feet or less above grade.
MURAL shall mean an artistic image or design painted or affixed to the exterior surface of a structure that does not contain a commercial text message, graphic or image.
NIT shall mean a unit of luminance equal to one candela (one candle) per square meter.
NONCOMMERCIAL SIGN shall mean any sign that is not a commercial sign.
NONSTRUCTURAL TRIM shall mean the molding, battens, caps, nailing strips, latticing, cutouts, or ladders and walkways which are attached to the sign structure.
OFF-PREMISES SIGN shall mean any sign which serves to advertise a product, service, or activity not conducted on the premises on which the sign is located or within 300 lineal feet thereof.
ON-PREMISES SIGN shall mean any sign which serves to advertise and/or identify a product, service, or activity conducted on the premises on which the sign is located, or identifies said premises or a use thereof.
PERSON shall mean and include any person, firm, partnership, association, corporation, company, or organization of any kind.
POLE SIGN shall mean any freestanding sign in which the top edge of the sign is more than ten feet above grade.
PROJECTING SIGN shall mean any sign other than a wall sign which is attached to and projects at an angle of not less than forty-five degrees from a structure or building face.
PROJECTION shall mean the distance by which a sign extends beyond a building or structure.
REAL ESTATE SIGN shall mean any sign which identifies an offer to sell, rent, or lease of the premises on which the sign is located.
RESIDENTIAL ZONE shall mean the following zones: R-1, R-2, OMH, and MH.
REVEAL shall mean a message transition where portions of the message appear and/or disappear sequentially.
ROOF LINE shall mean the uppermost exterior surface of the roof of a building.
ROOF SIGN shall mean any sign mounted on the main roof portion of a building or on the top most edge of a parapet wall of a building; and which is wholly or partially supported by such building. For the purpose of this chapter, signs mounted on mansard facades, penthouse eaves, facades and architectural projections such as canopies or marquees shall not be considered to be roof signs. Signs mounted on an ornamental attachment not used for shelter or protection of persons or property, such as cupolas, shall be considered roof signs.
SCROLL or TRAVEL shall mean a message transition where the message that is leaving or appearing appears to move vertically or horizontally across the display surface.
SIGN shall mean any structure, fixture, graphics, illustration, statue, or other device visible from off the premises designed or intended to advertise, to identify, to attract attention to, or to convey information regarding any goods, product, service, business, location, institution, activity, person, solicitation, issue, or campaign, with the exception of merchandise window displays, national, state or other Nebraska governmental subdivision flags, and sculpture. For purposes of removal, sign shall also include any sign structure.
SIGN STRUCTURE shall mean any structure which is designed or used to support any sign as defined in this chapter. A sign structure may be a single pole and may or may not be an integral part of the building.
TEMPORARY SIGN shall mean any outdoor sign or device including but not limited to banners, pennants, flags, or advertising display constructed of cloth, canvas, light fabric, cardboard, or other light materials, with or without frames, intended to be displayed for a limited period of time and

which is not permanently affixed; provided, that temporary signs shall not include mobile signs.
WALL SIGN shall mean any sign painted on or attached to the wall or facade of a building with the display surface parallel to or at an angle to which it is attached, and which projects no more than twenty-four inches from the wall surface. No wall sign shall extend vertically or horizontally beyond

the building facade from which the sign is attached. A wall sign may project into a right-of-way. A wall sign may be located at any height on a parapet or facade. A wall sign may be mounted on a mansard facade or penthouse facade.
WINDOW SIGN shall mean a sign installed inside a window which can be viewed from outside the premises and is six feet or less from the window or is located within a window display area formed by walls or doors that block the view into the main building.

1.1 General Sign Types.
Figure 1

1.2 Calculating the Sign Area of a Sign.

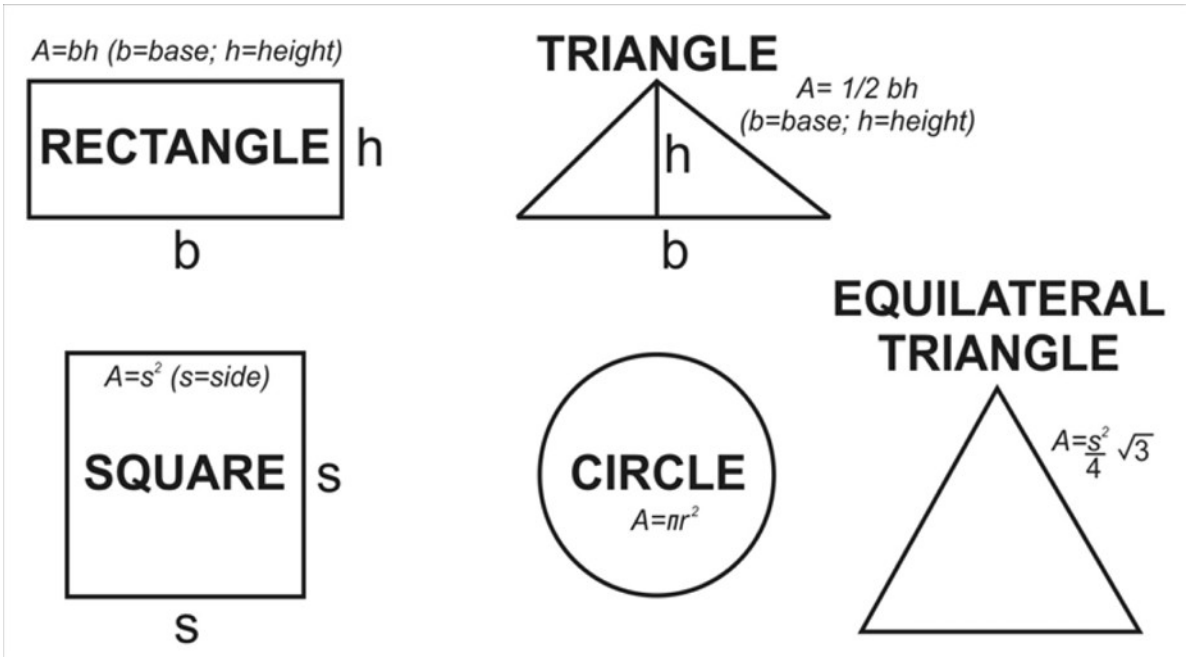
The sign area of a double-faced sign or two-sided or three-sided V-type sign not exceeding an angle of sixty degrees shall be calculated on one face of the sign only. The sign area of a four-sided sign is to be calculated as two signs, and the sign area of a triangular, three-sided sign shall be calculated on its largest face.

(a) Freestanding Sign. The sign area of a freestanding sign shall be calculated by the area defined by the constructed or fabricated cabinet, panel or frame. If the sign consists of more than one section or module, all areas will be totaled. If the sign does not have a defined cabinet, panel or frame, or the cabinet, panel or frame is of an irregular shape, the sign area shall be calculated the same as a wall sign

(b) Wall Sign. The sign area of a wall sign shall be calculated by using up to a simple eight-sided geometric figure around the advertising message and shall include any framing or border.

(c) Marquee Sign. The sign area of a marque sign shall be counted toward the total allowable wall sign area of the parallel wall face to which the marquee is attached; the sign area of a marquee sign attached perpendicular to the wall shall be counted toward the allowed sign area of a projecting sign.

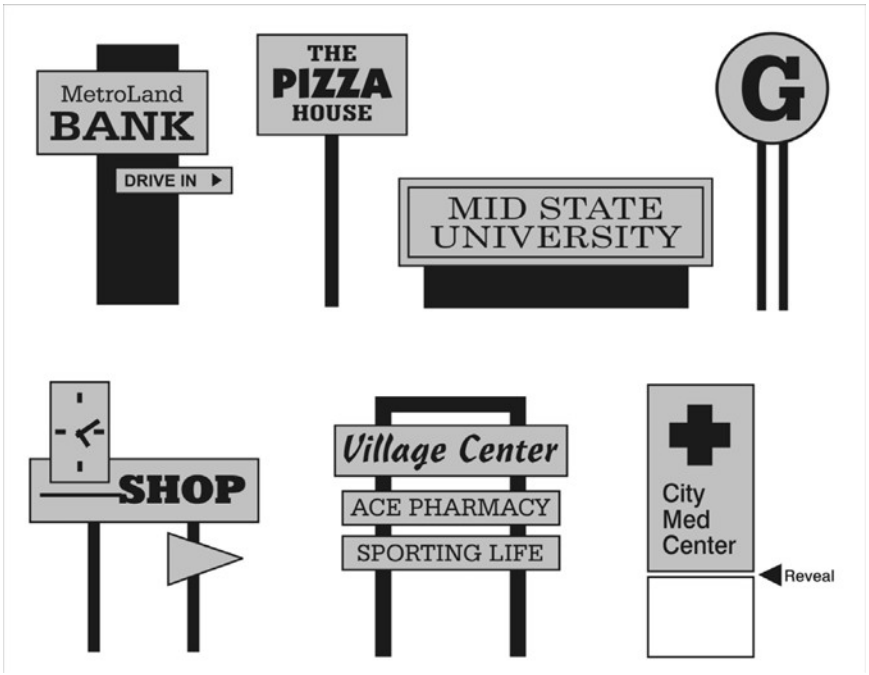
Simple Geometric Figures - Figure 2



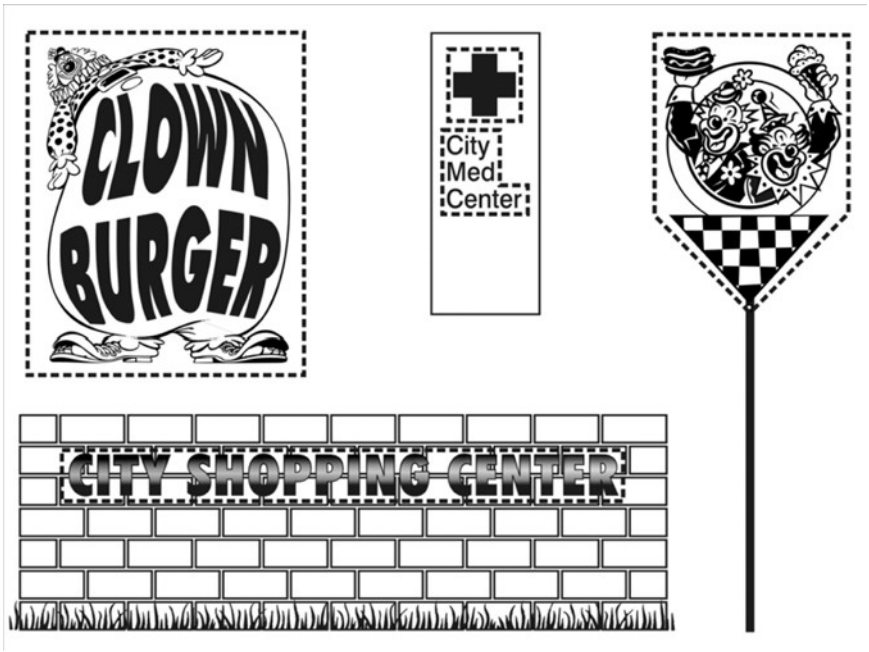
Calculating the area of a wall sign - Examples - Figure 3

Sign with a cabinet or panel -calculate the shaded area.
Sign made up of individual letters mounted on a wall -calculate the area around each word.
Sign painted on a wall - calculate the painted area including the painted background.

Calculating the area of a sign constructed with panels or cabinets - Examples - Figure 4
The sum of the shaded area represents sign area.



Calculating the area of a sign without a defined panel or cabinet or signs with an irregular shape - Examples - Figure 5
The sign area is calculated by using up to a simple eight-sided geometric figure around the advertising messages and includes any frame or border. The dotted line represents the calculated sign area.



1.1 General Provisions.

Except as otherwise provided in this chapter or in any other applicable ordinance or regulation, no sign or part thereof shall be erected or maintained in any zoning district except in conformance with these General Provisions. The General Provisions apply to both on-premises and off-premises signs.

(a) Location, Height, Area, and Other General Requirements.

(1) No sign shall be erected or maintained in a required yard except as otherwise provided in this chapter, or encroach upon or overhang any adjacent property or public right-of-way.

(2) No sign shall be erected upon or against a roof or on top of the parapet of a building.

(3) No sign shall exceed the maximum height permitted for buildings in the zoning district in which the sign is located.

(4) Every sign shall be permanently attached to the ground, or to a building or structure which is permanently attached to the ground, except for mobile signs and temporary signs.

(5) No sign shall be painted on or attached to rocks, trees, or any other natural object.

(6) No sign shall be erected, placed, or maintained in a location that violates the site obstruction requirements for street intersections or entrances or exits from private property.

(7) Every freestanding sign permitted on a "per frontage" basis shall be allocated to and be located proximate to the specific frontage which would authorize such sign.

(8) The required space between the location of any sign and an abutting residential district shall be as follows:

(i) 50 feet if non-illuminated,

(ii) 100 feet if illuminated.

(9) No sign shall move, rotate, revolve, or simulate animation by means of

spinning, fluttering, or reflective devices or lighting, except a sign may rotate or revolve at a rate not to exceed six revolutions per minute.

(10) All freestanding signs must be spaced a minimum of 50 feet apart.

(11) No sign shall be erected, placed or maintained in any location in violation of the zoning regulations of the City of Terrytown.

(12) No person shall place, construct, or erect any sign which, by reason of its size, location, movement, content, coloring, or manner of illumination, may be confused with or construed as a traffic control sign, signal, or device, or the light of an emergency or road equipment vehicle.

(13) No person shall place, construct or erect any sign which hides from view any traffic control sign or signal or device.

(b) Wall Signs. Wall signs are allowed in the C zoning districts, subject to the following restrictions:

(1) The wall sign shall not exceed 25 square feet in sign area per architectural elevation nor be located on the side of the building abutting a residential district or facing a local or collector street when the land across the street is zoned residential.

(2) In all other allowed zoning districts, the wall sign shall have a maximum sign area of 500 square feet.

(3) No wall sign or wall sign structure shall project into the right-of-way.

Table (1) - Projection of Wall Signs

Clearance	Maximum Projections
Less than 7'6" above grade	2 ½ inches
Over 7'6" above grade	24 inches

(c) Projecting Signs. Projecting signs are allowed in the C zoning districts, subject to the following restrictions:

(1) The projecting sign shall be in lieu of one freestanding sign.

(2) The projecting sign shall have a minimum ground clearance of eight feet above the walk or grade below.

(3) The projecting sign shall not exceed 100 square feet in sign area.

(4) In the C zoning districts, the projecting sign shall not exceed 25 square feet in sign area and such sign shall not be located on the side of the building abutting a residential district or facing a local or collector street when the land across the street is zoned residential.

(d) Marquee Signs. Marquee Signs are allowed in all C zoning districts, subject to the following restrictions:

(1) The marquee sign shall be designed so that sign support braces are not visible from street level.

(2) The marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater.

(e) Electronic Changeable Copy Signs are allowed in all Residential and C zoning districts, subject to the following restrictions:

(1) The sign area displaying electronic changeable messages shall not exceed 100 square feet of sign area and such sign area shall be included as a part of the total permitted signage for the premises on which it is located.

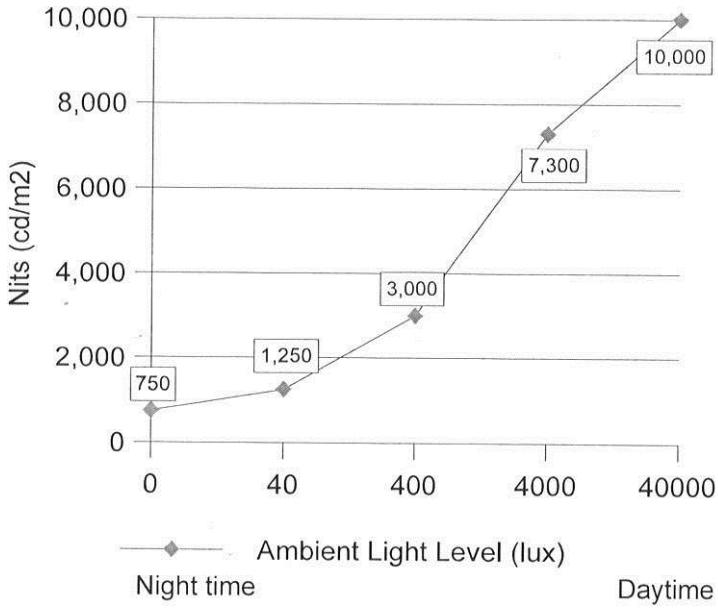
(2) No message on an Electronic Changeable Copy Sign shall be animated, except in the C zoning districts.

(3) Transition between messages are permitted but such transitions may only fade, scroll, travel, or reveal, and the transition shall not exceed a duration of one second.

(4) Illuminated electronic changeable copy signs shall be equipped with a sensor and/or timer or other device approved by the Zoning Administrator to automatically adjust the day/night light intensity levels in accordance with Figure 6 below.

(5) The sign in Residential zones shall only be allowed to operate and display for a church or public school or private school and shall not be operated or displayed between 11:00 p.m. and 6:00 a.m. daily.

Figure 6 - Maximum Sign Brightness with Varying Ambient Light



(d) Illumination.

(1) In all nonresidential districts, signs may be illuminated, except that the surface illumination of any sign shall not exceed the levels shown in Figure 6 below for different conditions of ambient light.

(2) Lighted vending machines are not permitted in view from off the premises in any residential zoning district.

(e) Mobile Signs. Mobile signs identifying special sales and openings shall be permitted on the premises of a commercial establishment for no more than sixty days in any calendar year in districts where commercial establishments are permitted subject to the following restrictions:

(1) The mobile sign shall not exceed sixty square feet of sign area

1.5 Off-Premises Signs.

1. Off-premises signs are permitted in the C and M zoning districts. Provided, a copy of a signed lease or other verification that the party has permission of the owner of the land upon which the off-premises sign shall be located shall be provided to the Development Services Department.

2. The minimum distance between an off-premises sign and a public elementary or public

high school, private school having a curriculum equivalent to a public elementary or public high school, community college, park, or cemetery shall be 600 feet measured in all directions regardless of the zoning jurisdiction in which the public elementary or high school, private school having a curriculum equivalent to a public elementary or public high school, community college, park, or cemetery is located.

1.6 Sign tables.

Zoning Districts	Type of Sign	Number of Signs	Size Allowed	Height	Section Reference

R-2, OMH, MH

(1) **100 sq. feet unless abutting residential zone, then 25 sq. ft

(2) Digital Billboards will be regulated according to Section 16.3 and 16.4 and not as set forth above on this sign table."

(3) In such zones no attached or extended sign may, in whole or in part, project above or be higher than the roof line or a parapet. Signs may disclose the name of the building and the nature of the occupancy. In any C Zone, any billboard shall be located not less than one hundred fifty (150) feet from a residence building.

Billboards

Zone	Attached	Extending	Detached
C	X	X	X

1.7 Churches, Schools, and Community Playhouses.

1. On premises in a residential zone on which is situated a building occupied or used as a church, public community center, library, hospital, lodge, club, school (except nursery school), other educational or charitable institution or fire station, or on premises in such a zone which are used by the city as a park or campground, there may be erected a freestanding sign, not exceeding 4 feet in height above the ground and 40 square feet in area, on which is displayed the name and address of the occupant or user of the premises and its meeting schedule, if any, and which is illuminated by non-flashing and non-blinking lighting which, as determined by the Zoning Administrator, does not shine directly upon any other premises and does not constitute a traffic hazard.

2. A permitted freestanding sign fronting on an arterial street may include electronic changeable copy if it meets the following conditions and requirements:

(a) Total area of the electronic changeable copy sign shall not exceed 75% of the total allowed freestanding sign area;

(b) The electronic changeable copy sign message shall hold for at least three seconds and transition to a new message shall not exceed a duration of one second.

1.8 Murals.

In all zoning districts, murals, exclusive of any sign area, painted on walls of a building, fence, or similar structure shall be permitted; provided that a permit therefor is obtained from the Zoning Administrator and that such mural shall not interfere with traffic or present any other hazard or detriment to the public health, safety or general welfare. The murals shall be maintained properly, to include correcting any peeling or fading of paint, and to repair the mural if maintenance is required.

1.9 Nonresidential; Permanent Window Signs.

In all nonresidential zoning districts, permanent window signs shall be permitted; provided that such signing does not cover more than 25% of the area of any window or door.

1.10 Maintenance of Signs.

All signs shall be continuously maintained in a state of security, safety and repair, and shall be painted at reasonable intervals. If any sign is found not to be so maintained or is in need of painting or repair, it shall be the duty of the owner and occupant of premises to repair, paint or remove the signs within ten days after receiving written notice to do so from the Zoning Administrator. If the sign is not so repaired, painted or removed within such time, the Zoning Administrator shall have the power to cause the sign to be removed at the expense of the owner of the premises.

2 Residential Zone.

In a residential zone, signs or name plate visible from the exterior of the building or structure may be displayed as follows:

(1) one (1) nameplate not exceeding one (1) square foot in area, designating the name of the occupants, may be displayed on a single-family dwelling or a duplex,

(2) one (1) nameplate not exceeding two (2) square feet in area, designating the name of the building, may be displayed on an apartment or boarding house, or

(3) one (1) nameplate not exceeding four (4) square feet in area, designating the name, the occupants, and a meeting schedule (if any), may be displayed on any building not used primarily for residence purposes. All signs or name plates in such a zone must be placed flat against a building and displayed without illumination, except as otherwise provided in section 3.

3. Public, semipublic facilities.

On premises in a residential zone on which is situated a building lawfully occupied or used as a church, public community center, library, hospital, lodge, club, school (except nursery school), other educational or charitable institution or fire station, or on premises in such a zone which are used by the City as a park or campground, there may be erected a freestanding sign, not exceeding four (4) feet in height above the ground and forty (40) square feet in area, on which is displayed the name

and address of the occupant or user of the premises and its meeting schedule, if any, and which is illuminated by non-flashing and non-blinking lighting which, as determined by the Zoning Administrator, does not shine directly upon any other premises and does not constitute a traffic hazard.

4 Setbacks; generally.

Detached signs not exceeding in height the building height limitation of the zone in which the sign is located may be erected in a front setback area in any zone except a residential zone provided, signs which conform to the requirements in section 6 may be erected in a front setback area in a residential zone. Detached signs shall not:

(1) obstruct or impair pedestrian or motorist vision,

(2) obstruct neighboring signs or adjoining lots or tracts of land, or

(3) be erected within a triangular area bounded by the property lines of the lot or tract abutting two intersecting streets and a line connecting a point on each such property line that is twenty (20) feet from the point of intersection of such lot lines; provided, extending or freestanding signs the lowest part of which is not less than ten (10) feet above the finish grade may be erected in such triangle area in any zone except a residential Zone.

4.1 Temporary detached signs; where allowed; permit required; conditions.

(A) Upon obtaining a permit from the Zoning Administrator, a Temporary Detached Sign

may be erected in a C zone, subject to the following provisions:

1. Such sign shall not exceed twenty square feet in area;
2. Such signs are prohibited in any public right-of-way, including streets, sidewalks, parks and public facilities.
3. Such signs shall comply with the provisions of Section 4.
4. The applicant shall pay a $25.00 fee.
5. The permit shall be conspicuously displayed on the premises.

(B) The number of temporary detached signs on a lot is subject to these limitations:

1. A permit may be issued for two temporary detached signs for a period of one year.
2. An additional thirty-day permit may be issued for not to exceed three additional temporary detached signs. No more than two such permits may be issued for a lot in a calendar year.

(C) No permit shall be required for the following temporary detached signs:

1. Political signs.
2. Signs advertising for an occasional sale of personal property to be conducted at the home of the seller, commonly called a "garage sale."
3. Signs on property occupied by a church.
4. "For Sale," "Sold," and advertising construction signs as described elsewhere in this Chapter.

5. Signs advertising goods or services offered by a non-profit organization.

5. Residence subdivision identification; permit.

Anything in section 6 to the contrary notwithstanding, the Zoning Administrator may grant a special permit for the erection and maintenance of one (1) or two (2) subdivision identification signs at each collector or arterial street entrance to a subdivision in a residence zone. The area of such a sign or, if there be two signs, the aggregate area of the two (2) signs at a particular entrance shall not exceed thirty-five (35) square feet; provided, further, no such sign(s} exceeding thirty-six (36) inches in height may be erected within a triangular area bounded on two (2) sides by the intersecting right-of-way lines of the two (2) abutting streets and on the third side by a line connecting a point on each such boundary line which is twenty (20) feet from the point of such intersection. The sign(s) shall identify the subdivision by name or symbol only, and may have indirect illumination. The sign shall be maintained in good condition by the owner at all times.

6. Residential Zones.

Freestanding signs which conform to the requirements prescribed in section 3 may be erected as herein provided in a setback area of premises in a residential zone which are of a type described in that section. Such a sign, if erected in a front setback area of a lot or tract of land which is not a corner lot or tract, shall be erected not closer to the front property line than one-half (½) of the distance from the property line to the front setback line or, if the lot or tract of land is a corner lot or tract, shall not be erected within a triangular area bounded by the property lines of the lot or tract abutting the two intersecting streets and a line connecting a point on each such property line that is thirty (30) feet from the point of intersection of such lot lines.

7. Directional signs.

Directional signs not exceeding five (5) feet in height above finish grade may be erected in a front yard setback area in any zone except a residential zone; provided, such signs shall also conform to the requirements in subsections (1), (2) and (3) of section 4.

8 "For Sale," "Sold" signs; R Zones.

A single "For Sale" sign may be erected upon a single lot or tract being advertised for sale in a residence zone, and a single "Sold" sign may be erected upon such a lot or tract after sale. Such

sign shall not exceed four square feet in area. The Zoning Administrator may grant a special permit for the erection of a temporary sign or billboard to advertise the sale of lots or tracts of land in a new residence subdivision, subject to the following conditions:

(1) the sign or billboard may contain advertising disclosing the name of the developer, the name of a real estate agent selling lots or tracts of land in the subdivision, or the services provided by the developer, but may not contain advertising not pertaining to the sale of lots or tracts of land in the subdivision,

(2) a sign or billboard erected or maintained in a unit of a subdivision may not contain advertising pertaining to another unit of the same subdivision,

(3) the Planning Commission may not authorize the erection of a sign or billboard which the Planning Commission finds will interfere with or create a hazard to traffic,

(4) the Zoning Administrator may fix the size of the sign or billboard having due regard for the distance it is situated from the street, but in no event may the sign or billboard exceed one hundred twenty (120) square feet in area, and

(5) the sign or billboard may not be illuminated. Such a permit may not be granted for more than one (1) year, but may be renewed by the Planning Commission for periods not exceeding one year each on written application made at least thirty (30) days before the permitted period expires.

9. Advertising construction, financing; permit.

A sign or billboard advertising the construction, and a sign advertising the financing of construction, of a new building or structure may be erected upon the premises on which the building or structure is to be constructed for not to exceed one year after the date of the building permit; provided, the Planning Commission may grant a special permit to maintain such a sign for further periods not exceeding one year each on written application made at least thirty (30) days before the permitted period expires. In any area zoned for residential use the sign or billboard shall not exceed thirty-six
(36) square feet in area. The sign or billboard may state the name of the owner of the premises, the services provided by the owner, and the names of contractors, subcontractors, architects, engineers, and the institution or person by whom construction is being financed in whole or in part, but may not contain advertising or information not pertaining to the premises.

10. Remodeling, repairing; if remodeling or repair permit required.

In case of remodeling or repair of a building or structure for which a permit is required, a sign advertising the remodeling or repair, and a sign advertising the financing of remodeling or repair, of the building or structure may be erected upon the premises on which the building or structure is situated for not to exceed twenty-one (21) days after the date of the permit; provided, the Zoning

Administrator may grant a permit to maintain such sign(s) for a further period not exceeding thirty
(30) days on written application made not less than five (5) days before the permitted period expires. In any area zoned for residential use the sign(s) shall not exceed sixteen (16) square feet in area each. The sign(s) may include names of contractors, subcontractors, architects and engineers, and of the institution or person by whom the remodeling or repair is being financed in whole or in part, but may not contain advertising or information not pertaining to the premises.

11. If remodeling or repair permit not required.

If no permit is required for remodeling or repair work being done on a building or structure, a sign or signs of the type and on the premises referred to in section 10 may be erected and maintained upon compliance with the requirements of this section. An application for a temporary permit for such sign(s) shall be made to the Zoning Administrator in such form as the Zoning Administrator may prescribe, but no fee shall be payable for the permit. Such a

permit shall be effective for a period of twenty-one (21) days; provided, the Zoning Administrator may grant an extension of the permit for a further period not exceeding thirty (30) days on written application made not less than five (5) days before the permit expires.

12. Signs; where required by law.
Signs that are required by law may be erected without securing a special permit.

12.1. Billboards: Where permitted.

1. Billboards are allowed only in the C zones and within such zones, only in the following locations: 10th Street and Five Rocks Road.
2. No billboard may be erected closer than three hundred feet to any "R" zone.

12.2. Billboards, other regulations.

1. The top of a billboard may not be more than forty-five feet above the roadway grade level.
2. No billboard may exceed two hundred eighty-eight square feet in size.
3. No billboard is allowed at a distance less than one thousand feet from any other billboard on the same side of the roadway, provided however, that billboards may be placed back-to-back where the separation of panels does not exceed ten feet.
4. Billboards must be erected on a dark colored monopole.
5. No double-faced stacked billboards or billboards placed on top of a building are allowed.
6. All billboards must be maintained in good repair and meet all city and state regulations.
7. In addition to other applicable requirements, an applicant for a permit to erect a billboard shall furnish to the Zoning Administrator:
    a. Footing and structure details and a computer-generated drawing of the proposed billboard.
    b. A letter of review of the billboard location from the Nebraska Department of Roads.

12.3. Billboards. Digital Regulations.

1. **Illumination**. A billboard may be illuminated, provided such illumination is consistent with the requirements for a digital billboard as set forth herein, or is concentrated on the surface of the billboard and is located so as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles or any adjacent premises.

2. **Appearance –** All billboards must be stationary and may not contain any visible moving parts, alternating or moving messages or have the appearance of having moving parts or messages. Under no circumstances may any type of billboard contain a message or display that appears to flash, undulate, pulse, move, or portray explosions, fireworks, flashes of light, or blinking lights or otherwise appears to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist or make other comparable movements.

3. **Construction & Maintenance.** A billboard shall be constructed in such fashion that it will withstand all wind and vibration forces that can normally be expected to occur in the vicinity and in compliance with all applicable codes. A billboard shall be maintained so as to assure proper alignment of structure, continued structural soundness and continued readability.

4. **Cap & Replacement –** Two to one replacement of off premise billboard signage must be removed for every one square foot installed. (see nonconforming signs 12.4)

5. **Display** – **(1)** The display or message on a digital billboard, of any type, may change no more frequently than once every ten seconds, with a transition period of two seconds or less. Distance between - 5,000 feet.

(2) The display or message must otherwise comply with subsection **2** and the digital billboard must have installed an ambient light monitor which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light condition consistent with terms of this ordinance.

(3) Maximum brightness levels for digital billboards shall not exceed .2 (two tenths) foot- candles over ambient light levels measured within 150 feet of the sign. Certification must be provided to the City demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration shall be annually required by the City, in its reasonable discretion, at the applicant/owners expense to ensure that the specified brightness levels are maintained at all times.

(4) Brightness of digital billboards shall be measured as follows:

A. at least 30 minutes following sunset, a foot candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre-set location.

B. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.

C. If the difference between the readings is 0.2 candles or less, the brightness is properly adjusted.

6. **Other Applicable Laws**. A billboard must comply with all applicable provisions of federal and state law."

12.4 Non-conforming Signs.

All Nonconforming signs shall be brought into compliance when one or more of the following occurs:

1) When the sign is damaged by any means in excess of 60 percent of its replacement value at the time such damage occurs.
2) Notwithstanding the above, the owner of a nonconforming off premises sign with side-by-side faces in one direction, may replace said sign provided that:

a. The replacement sign shall have not less than 200 square feet or more than 288 square feet per face.
b. The sign structure for the replacement sign shall utilize a monopole design that is structurally rated to accommodate the replacement sign.
c. If the replacement sign is illuminated by reflected lighting, the lighting shall be provided by down lighting methods or in accordance with digital lighting regulations if a digital display face is utilized.
d. The replacement sign shall be located a minimum distance of 150 feet from a residential district, park, or cemetery when facing such district, park, or cemetery.
e. The replacement sign will be installed within 180 days of the removal of the existing off premise sign being replaced."

13. Political signs; intent of regulation.

The intent and purpose of the regulations in this Article pertaining to political signs is to allow a maximum of political expression by such means which is compatible with significant interests of the public and of individuals in the protection of the right of privacy of individuals and the

quiet and undisturbed enjoyment of property, and which will prevent practices commonly associated with the placement of such signs which are not conducive to the public health, safety and welfare, including but not limited to trespassing upon private property, placement without permission of the property owner, placement in such manner as to make removal difficult, hazards to traffic because of size, location or proliferation, aesthetically displeasing impact in residential areas, littering caused by dislodged signs, and delay in removal of non-removal of signs after an election.

14. Authorization; restrictions; requirements; general.

Political signs are permissible in any zoning district, subject to compliance with:

(1) the restrictions and requirements contained in sections 14 through 20, and

(2) the restrictions and requirements contained in sections 2 and 4.

15. Specifications; Residential Zones.

No political sign in any Residential Zone shall exceed eight (8) square feet in total area; provided a double-faced sign may have such area on both sides. No political sign, unless within a building or enclosed structure, shall have an overall height in excess of four (4) feet. No political sign shall be specially lighted, either directly or indirectly.

16. Sign placement; removal; time.

No political sign shall be erected or displayed sooner than forty-five (45) days prior to the date of the election to which the sign pertains, and every such sign shall be removed by the applicant within ten (10) days after the election.

17. Posting; consent of property owner; public rights of way, property.

Nothing in this Article shall be interpreted to authorize the posting or display of political signs upon:

1. private property without the consent of the person(s) in possession or control thereof,

or

2. the right of way of any public street, alley or other public way, or upon any property

owned by, or in the possession or control of, any governmental subdivision or agency.

18. Signs in violation; notice.

If a political sign shall have been placed without compliance or, as the case may be, shall not have been removed in compliance, with an applicable provision in this Article, the Zoning Administrator shall cause written notice specifying the violation and ordering removal of the sign within three (3) days after the date of the order, to be personally served or, as the case may be, mailed (1) to the person(s) who erected the sign, if known or if not known; (2) to the person(s) in possession of the premises, if known or if not known; to (3) the owner(s) of record of the premises. It shall be unlawful for the person(s) to whom such an order is directed to fail to comply with the order.

19. Signs in violation; removal.

The event of refusal or failure to remove a political sign on the part of the person(s) to whom an order to remove the sign has been directed as provided in this Article, the Zoning Administrator may enter upon the premises and remove the sign if situated in a yard not wholly enclosed within a fence,

including a closed gate, and if such entry will not violate any provision in trespassing Ordinance 245. After the Zoning Administrator shall have removed such a sign, he or she shall cause it to be transported to the office of the Zoning Administrator where it shall be held for a period of thirty (30) days, during which it may be claimed and received by a person entitled to possession of the sign, as determined by the Zoning Administrator. If the sign shall remain not claimed and

received, as provided in this section, after such period, the Zoning Administrator shall cause the sign to be destroyed.

20. Signs inside buildings, structures.

The restrictions and requirements contained in the preceding sections shall not apply to any political sign placed inside a building or enclosed structure.

21. Placards; signs; bills; posting; printing; painting; prohibited.

It is hereby declared unlawful for any person, firm or corporation to post, print, paint, or in any other manner place upon any sidewalk, crossing or crosswalk or other way or passage for the use of pedestrians or upon any pavement in any street or alley in the City any placard, sign, advertisement, display bill, letter or kindred matter of any kind or description, unless permitted by a Zoning Administrator. An application for such permit, along with any fee required under this Ordinance, shall be delivered to the Zoning Administrator. The Zoning Administrator will review the application as well as any rules and regulations governing the use of any right-of-way, street, alley, or sidewalk and, if it appears to the Zoning Administrator that the proposed use complies with all rules and regulations, and that the public safety, convenience and welfare will not be adversely affected, the Zoning Administrator will issue a permit to the applicant. The permit shall be valid for
one calendar year, beginning on January 1st of each year and expiring on December 31st of each year. Any permit issued by the Zoning Administrator shall be subject to the condition that the permit may be revoked at any time the Administrator finds that public safety, convenience and welfare would be enhanced by the revocation of such permit. If the Administrator grants the application, the applicant shall be given a written permit signed by the Zoning Administrator. Such permit shall state in writing that it may be revoked at any time the Administrator finds that public safety, convenience and welfare will be enhanced by the revocation of the permit. If the Administrator has imposed conditions on the granting of the permit, such conditions shall be specified in the permit. Any use of the city right-of- way or any obstruction or encroachment upon any street, alley, sidewalk or municipal parking lot in the City without having obtained a permit as provided in this section or as otherwise provided in this Chapter shall be deemed a nuisance.

22. Handbills; posters; dropping; leaving; prohibited.

It is hereby declared unlawful for any person, firm or corporation to throw, cast or put into, drop or leave in any street, alley, sidewalk, parking, or public place any handbill, poster or other advertising or printed matter of any kind or description.

23. Banners; placards; advertisements; carrying; for display; prohibited.

No person or persons shall carry any banner, placard or advertisement for the purpose of displaying the same in or upon any street, sidewalk or public place within the City, provided, however, that this restriction shall not apply to banners, placards or advertisements advertising goods or services offered by a non-profit organization

24. Flags, banners, temporary signs.

Unless prohibited by section 21, flags and banners of a non-commercial nature may be attached to poles set in concrete or in the ground in a street right-of-way in a non-residential area. All flags, banners and temporary signs placed pursuant to this section shall

(1) be securely attached to a pole or cable,

(2) not be hung so as to come in contact with cars parked in designated parking areas or with pedestrians using sidewalks or persons getting in or out of parked vehicles,

(3) be removed as soon as torn or damaged.

Subject to the above restrictions, flags and banners may also be attached to cables attached to poles with the approval of the City Council as long as the flags and banners do not at any point

hang less than 12 feet above a city street and are being placed during and in conjunction with the following:

(a) sidewalk bazaar, which means the display and sale at retail of merchandise on public sidewalks abutting premises on or in which the merchandise is sold or offered for sale by the person or firm by which the merchandise is displayed and sold on such sidewalks, as an incident to an organized community event conducted as provided in this Article,

(b) carnivals, including rides and other types of amusement park equipment and activities, which may be placed or conducted on that part of a public street improved for travel or parking of motor vehicles,

(c) community festival, which may include a sidewalk bazaar, carnival, and art show,

(d) art show, which may include the sale of works exhibited.

(e) business promotion events, which may include the demonstration of a

product or products to be offered for sale.

The City Administrator, or any City employee designated by the City Administrator to enforce the provisions of this Chapter, may require a flag, banner, pole or cable to be removed or modified if it creates a hazard to pedestrians or vehicles.

25. Signs; prohibited; exceptions.

It shall be unlawful for any person, firm or corporation to erect or install any sign, signpost advertisement, signpost or other form of sign support, or any part thereof, upon or in such manner as to project wholly or in part over the right-of-way of any street or avenue (including but not limited to. any sidewalk or sidewalk area) or alley of the City, or to permit any such sign owned or leased by such person, firm or corporation to remain, except as hereinafter provided.

26. Same; extending signs.

An existing sign which extends over the right-of-way of any street or avenue may be maintained, and a permit may be issued for the erection, remodeling or replacement of a sign which so extends only if the sign meets, or after remodeling or replacement will meet, all of the following requirements, as determined by the Zoning Administrator:

(1) the sign is attached only to, and supported only by, a building that is situated on a lot or tract of land concerning which there exists no restrictive building setback line of record, and that also abuts, at the point of attachment of the sign, the right-of-way line of the street or avenue,

(2) the sign is situated not less than ten (10) feet above the surface of the sidewalk, or sidewalk area, and no part of the sign projects beyond a point which is perpendicularly above a point that is less than three (3) feet distant from the rear line of the curb or, if there is no curb, from an extension of the rear line of the nearest curb and

(3) the sign is or, as the case may be, will be safe and secure, and will not constitute a hazard to persons or vehicles on the street, avenue, sidewalk or sidewalk area.

27. Same; permit; application; determination; revocation.

Before erecting, remodeling or replacing any sign that will extend over any street, avenue, sidewalk or sidewalk area, a written permit therefor shall be obtained from the Zoning Administrator. In order to obtain such a permit, the person, firm or corporation wishing to erect remodel or replace the sign shall file with the Official a written application for a permit, which application shall provide full information as to size, weight and character of the sign, its height above the surface of the sidewalk or sidewalk area, and the distance of its outer edge from the rear line of the curb or, if there

is no curb, from an extension of the rear line of the nearest curb together with drawings or other data showing the nature and location of the building to which the sign will be attached, and the method of securing and fastening the sign. If the Zoning Administrator shall find that the sign will comply with all of the requirements of this Article, he or she may issue the permit: otherwise, he or she shall deny the application. Any such permit, if issued, shall be revocable by the Zoning Administrator at any time, upon a determination by him or her that the sign does not comply with all the requirements of this Article as then existing.

28. Signs; inspection; insecure; unsafe; owner; duty to repair, remove.
All such signs shall be periodically inspected by the Zoning Administrator. If it appears to the Zoning Administrator that any sign is insecure or unsafe it shall be ordered made safe or removed forthwith by the person maintaining the sign.

29. Same; violations; nuisance; notice; removal.
Every sign, sign box, advertisement or signpost erected or maintained in violation of any of the provisions of this Chapter is hereby declared to be a nuisance, and shall be removed by the Zoning Administrator at the expense of the owner thereof after one (1) days' notice to such owner to remove such sign.

SECTION 10-115. NONCONFORMITIES

15.01 General Nonconformities are of three types: Nonconforming lots of record, nonconforming structures, and nonconforming uses. A definition of each type is as follows:

1. Nonconforming Lot of Record. A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to these regulations, and the lot does not comply with the lot width or area requirements of the district in which it is located.

2. Nonconforming Structure. A structure that existed prior to the adoption of these regulations that does not comply with the lot coverage, height or yard requirements which are applicable to structures in the zoning district in which it is located.

3. Nonconforming Uses. A use of a structure or of land that lawfully existed prior to the adoption of these regulations which does not comply with the use regulations applicable in the zoning district in which it is located.

15.02 Nonconforming Lots Of Record The Zoning Administrator may issue a Building Permit for and nonconforming lot of record provided that:

1. The lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of the size and width at that location would have been prohibited by any zoning regulations.

2. The lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of the lot has been prohibited by any zoning regulations.

3. The lot can meet all yard regulations for the district in which it is located.

4. The lot can meet minimum sanitation requirements by either connecting a sanitary sewer line or having adequate area to support a septic system.

15.03 Nonconforming Structures

1. Authority to Continue. Any existing structure which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful.

2. Enlargement, Repair, Alterations. Any nonconforming structure may be enlarged, maintained, repaired or remodeled; provided, however, that no enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of the structure. Notwithstanding the above, a porch which is covered by a roof which extends into a front setback area may be enclosed but not in excess of the area covered by the existing roof.

3. Damage or Destruction. In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than sixty (60) percent of its replacement value, the structure shall not be restored unless it shall then conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of sixty (60) percent or less, no repairs or restoration shall be made unless a building permit is obtained within six months and restoration is actually begun one year after the date of the partial destruction and is diligently pursued to completion.

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

15.04 Nonconforming Uses

1. Authority to Continue. Any lawfully existing use of part or all of a structure or any lawfully existing use of land which existed prior to the adoption of these regulations and does not comply with these requirements of these regulations may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations.

2. Ordinary Repair and Maintenance.

a. Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.

b. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares the structure to be unsafe and orders its restoration to a safe condition.

3. Extension. A nonconforming use shall not be extended, expanded, enlarged, or increased either in land area or floor area.

4. Enlargement. No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless the use shall then conform to the regulations of the district in which it is located.

5. Damage or Destruction. In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than sixty (60) percent of its replacement value, the structure shall not be restored unless the structure and its use shall then conform to all regulations of the zoning district in which it is

located. When the damage or destruction is sixty (60) percent or less, no repairs or restoration shall be made unless

the building permit is obtained and restoration is actually begun within one year after the date of the partial destruction and is diligently pursued to completion.

6. Moving. No structure that is devoted in whole or in part to a nonconforming use and no nonconforming use of land shall be moved in whole or in part for any distance whatever to any location on the same or any other lot, unless the entire structure and its use and the use of land shall then conform to all regulations of the zoning district in which it is located after being so moved. Manufactured homes and mobile homes may be replaced on an existing utility hookup outside a manufactured home park unless the hookup has not been used for the previous twelve consecutive months.

7. Change in Use. If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use as a conditional use application, provided that the City Council, after receiving the recommendation of the Planning Commission, shall find that the proposed use is as appropriate or more appropriate to the district than the existing non-conforming use. In permitting a change, the City Council, after receiving the recommendation of the Planning Commission, may require conditions and safeguards to protect surrounding areas and properties. Once the use has changed it may no longer be returned to the original use or any other less appropriate use.

8. Abandonment or Discontinuance. When a nonconforming use is discontinued or abandoned for a period of twelve consecutive months, that use shall not be re-established or resumed; and any later use or occupancy of the land or buildings shall comply with the regulations of the zoning district in which the land or buildings are located.

9. Nonconforming Accessory Uses. No use which is accessory to a principal nonconforming use shall continue after the principal use shall cease or terminate unless the accessory use is permitted in the district.

10. Nonconforming Residential Uses. Notwithstanding the provisions of Section 15.04

(3) and (4), any structure which is devoted to a residential use and which is located in a "C" District may be remodeled, expanded or enlarged. The structure shall not be used to accommodate a greater number of dwelling or lodging units than the structure accommodated prior to the work.

11. Open Storage in Residential District. The storage of salvage or scrap materials, inoperable vehicles, household goods, and other similar items shall not be continued in any Residential District for more than sixty (60) days past the effective date of this Ordinance.

15.05 Status Of Conditional Uses

1. Status of Existing Conditional Uses: Where a use exists at the effective date of this Ordinance and is permitted by these regulations only as a Conditional Use in the zoning district in which it is located, it shall be deemed to be a nonconforming use. The Conditional Use shall not be enlarged or expanded unless an application is approved as set out in Section 17.03 of this Ordinance.

SECTION 10-116. ADMINISTRATION

16.01 Administrative Procedure The Mayor and City Council shall appoint a Zoning Administrator who shall be responsible for the administration of this Ordinance. The Zoning Administrator shall have the following powers and duties:

1. To enter upon any premises at reasonable times and make all inspections necessary to the performance of the Administrator's duties.

2. To order work or activities stopped by written notice served on the proper person, firm or corporation when the work is being done contrary to the provisions of this Ordinance or any other ordinance dealing with building construction or codes.

3. To issue building permits, according to applicable City ordinances and building codes.

4. To allow a period of ten (10) days for compliance with this Ordinance after issuance of a "stop work" notice.

16.02 Permits Required No building or other structure shall be erected, constructed, reconstructed, moved, or structurally altered without first obtaining a building permit as required by the City ordinance(s) governing building permits and codes.

SECTION 10-117. BOARD OF ADJUSTMENT, VARIANCES, AND APPEALS

17.01 Board of Adjustment.

The Mayor shall appoint, with the consent of the City Council, a Board of Adjustment, which shall consist of five regular members plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member shall be appointed for a term of three years. Each member may, after public hearing before the City Council, be removed by a three-fourths vote of the City Council for cause upon written charges. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by that member shall also result in his or her immediate loss of membership on the Board of Adjustment, and the appointment of another Planning Commissioner to the Board of Adjustment. If the Board of Adjustment does not include a member who resides in the extraterritorial zoning jurisdiction of the city, the first vacancy occurring on the Board of Adjustment after the effective date of this section shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the city at such time as more than two hundred persons reside within that area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside the corporate boundaries of the city but within its extraterritorial zoning jurisdiction. Neither the Mayor nor any member of the City Council shall serve as a member of the Board of Adjustment.

Members of the board shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution of the City Council and conditioned upon the faithful performance of their duties. The board shall organize at its first meeting each year after the City Council meeting when appointments are regularly made and shall elect from its membership a Chairperson.

The Board shall adopt rules in accordance with the provisions of this section and Neb. Rev. Stat.
§19-901 through §19-914. Meetings of the board shall be held at the call of the Chairperson and at such other times as the board may determine. Special meetings may also be held upon the call of any three members of the board. A majority of the board shall constitute a quorum for the purpose of doing business. The Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. It shall be the duty of the Chairperson to keep complete and accurate minutes of the board's proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating that fact, and to keep records of the board's examinations and other official actions, all of which shall be immediately filed with the City Secretary and shall be of public record. The board shall be responsible for making those reports and performing those other duties as the Mayor and City Council may designate."

17.02 Duties The Board is authorized:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location of soundness of structures.

2. To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map.

3. To authorize a variance where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this Zoning Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties or exceptional and undue hardships upon the owner of the property. Upon an appeal relating to the property, a variance from the strict application of this Ordinance may be granted to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution. In granting a variance, the Board may impose certain conditions, safeguards and restrictions upon the premises benefitted by the variance which may be necessary to reduce or minimize any potentially injurious effect of the variance upon other property in the neighborhood. A request for a variance shall not be granted unless there is a finding by the Board that all of the following conditions have been met:

   a. The strict application of the zoning regulation would produce undue hardship.
   b. The 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 the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
   e. The conditions which gave rise to the request are not created by an action or actions of the property owner or applicant.
   f. The condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an

amendment to these zoning regulations.

4. In exercising the above-mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. Tothat end, the Board shall have all the powers of the officer from whom the appeal is taken.

17.03 Applications

1. Procedure. The procedure for requesting a hearing before the Board shall be as follows:

a. All applications for a variance to the Board shall be in writing and filed with the Zoning Administrator. If the Zoning Administrator provides for an application form, then that form shall be used. The application shall include the following: (1) The description of the lot, tract of land, building, or structure for which the variance is

requested. (2) The name or names of the owner or owners. (3) The nature of the relief requested.

b. All applications shall be accompanied by an ownership list obtained from an abstractor or from County Records listing the legal description and the name and address of the owners of all property located within three hundred (300) feet of the boundaries of the property included in the applications.

c. A hearing shall be held by the Board of Adjustment within sixty (60) days of the filing of the application unless delayed by request of the applicant. Failure to hold a hearing within that time shall result in the variance being deemed granted unless the hearing as originally set has been continued at the request or with the consent of the applicant. Notice of the hearing shall be given as required by Section 19.

d. An application shall be accompanied by a filing fee of fifty dollars ($50). A separate filing fee of $50.00 be required for each request.

2. Additional Requirements. In addition to the above requirements, certain applications require additional information as follows:

a. Appeals and Interpretations:

(1) An application for an appeal or interpretation must be filed within fifteen
(15) days after a ruling has been made by the Zoning Administrator.

(2) A copy of the order, requirement, decision or determination of the Zoning Administrator which the applicant believes to be in error shall be submitted.

(3) A clear and accurate, written description of the proposed use, work or action in which the appeal or interpretation is involved and a statement justifying the applicant's position.

(4) Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.

b. Variance.

(1) The applicant shall submit a statement, in writing, justifying the variance

requested; indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the conditions as set out in Section 17.02 (Subsection 3) of this Ordinance.

(2) The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application; the structures existing; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board in consideration of the application should be included.

3. Performance. In making any decision varying or modifying any provisions of the zoning regulations, the Board shall impose any restrictions, terms, time limitations, landscaping, screening, and other appropriate safeguards as needed to protect adjoining property. The Board may require cash, a letter of credit or a performance bond to guarantee the installation of required improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board, and shall be enforceable by or payable to the City Council in the sum equal to the cost of constructing the required improvements. In lieu of the performance bond requirement, the Board may specify a time limit for the completion of the required improvements and in the event the improvements are not completed within the specified time, the Board may reconsider its action and may, after reconsideration, declare the granting of the application null and void.

17.04 Variances and Building Permits If the Board of Adjustment grants the application for the variance and a building permit will be necessary, the building permit shall not be issued until the statutory period for appeal from the decision of the Board has expired. No building permit may be issued while an application for a variance is pending before the Board or if the Board denies the application unless the Board's decision is reversed by a court. Once a variance is granted, the right to the variance shall expire unless the required building permit is applied for within six (6) months after the granting of the variance.

17.05 Appeals from the Board.

Appeals from a decision by the board may be taken as provided in Neb. Rev. Stat. §19-912.

SECTION 10-118. AMENDMENTS

18.01 General Provisions

1. Authority. The City Council may, by ordinance, amend, supplement, change, modify or repeal these regulations and the district boundaries. No amendment, change or repeal shall be adopted by the City Council until the Planning Commission has held a public hearing and submitted its recommendations.

2. Proposal of Amendments. Amendments may be initiated by the City Council, the Planning Commission, or upon application by the owners of the property affected. However, no person may apply for an amendment within a period of six (6) months following the denial by the City Council of the same application.

3. Application. When the owner of the property affected initiates an amendment to the regulations or the district boundaries, an Application for Amendment shall be obtained from the City Clerk. The application shall be completed in its entirety and filed with the City Clerk so that a public hearing date can be set.

4. Ownership List. The application for an amendment shall be accompanied by an ownership list obtained from an abstractor or County Records listing the legal description and the name and address of the owners of all property located within three hundred (300) feet of the boundaries of the property for which the zoning change is requested.

5. Fees. For the purpose of wholly or partially defraying the costs of the amendment proceedings, a fee shall be paid upon the filing of each application for a change of district boundaries or conditional use permit, in the amount of fifty dollars ($50.00).

6. Disposition of Amendment Proposals. Upon receipt of a proposed amendment from the City Council or an application for an amendment from the owner of the property affected, the Planning Commission shall hold a public hearing on the proposed amendment, and forward its findings and recommendations with respect to the proposed amendment to the City Council.

18.02 Planning Commission Public Hearing

1. Public Hearing. The Planning Commission shall hold a public hearing on each proposed amendment that is referred to, filed with, or initiated by it. The Planning Commission shall select a reasonable hour and place for the public hearing, and it shall hold the hearing within sixty (60) days from the date on which the proposed amendment is referred to, filed with, or initiated by it. An applicant for an amendment may waive the requirement that a hearing be held within sixty
(60) days.

2. Notice of Hearing. Public notice of a hearing on a proposed amendment shall be given as required by Section 20, except that the Planning Commission shall also send notice to the Board of Education.

3. Conduct of Hearing. The hearing shall be conducted and a record of the proceedings shall be preserved according to the procedures as the Planning Commission may prescribe by rule. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney. The Planning Commission may request a report on any proposed amendment from any governmental official or agency. A copy of the report shall be made available to the applicant and any other interested persons and shall be available for review in the office of the City Clerk at least three (3) days before the date set for public hearing. The Planning Commission may also require reports after the public hearing if additional information is deemed necessary. These reports shall also be made available to the applicant and any other interested persons.

18.03 Action By The Planning Commission

1. Recommendations. Upon the conclusion of the public hearing, the Planning Commission shall prepare and adopt its recommendations and shall submit them, together with a record of the hearing, to the City Council. The recommendations may be for approval or disapproval, or approval for less land area or a less intense zoning district. Reasons for the recommendation shall be included.

2. Amendments to Text. When a proposed amendment would result in a change in the text of these regulations, but would not result in a change of zoning classification of any specific property, the recommendation of the Planning Commission shall contain a statement as to the nature and effect of the proposed amendment.

18.04 Action By The City Council

1. Adoption of Amendments. The City Council shall consider the proposed amendment at a properly advertised public hearing. Upon the receipt of the recommendation of the Planning Commission and any protest petitions that have been submitted, the City Council shall consider the application and may approve the recommendations of the Planning Commission or take whatever action it deems necessary. If a proposed amendment is not acted upon finally by the City Council within sixty (60) days after the recommendation of the Planning Commission is submitted to it, the proposed amendment shall be considered to have been defeated and denied, unless the applicant for the amendment has consented to an extension of the period of time. Whenever a proposed amendment is defeated, either by vote of the City Council or by reason of the operation of this Subsection, the amendment shall not be passed without further public hearing and notice as provided in Section 18.02.

2. Notice of Hearing. Public notice of the City Council hearing on a proposed amendment shall be given as required by Section 20.

3. Protest. If a written protest against a proposed amendment is filed in the office of the City Clerk within fourteen (14) days after the date of the conclusion of the hearing on a proposed amendment by the Planning Commission, and the protest is signed and acknowledged by the owners of twenty (20) percent or more either of the area of the lot or lots included in the proposed change, or of those immediately adjacent on the sides and in the rear of the area proposed extending three hundred (300) feet, and of those directly opposite extending three hundred (300) feet from the street frontage of the opposite lots, then the proposed amendment shall not be passed except by a three-fourths (3/4) vote of the City Council.

4. Approved Action. If the City Council approves a change, it shall adopt an ordinance to that effect. If the official zoning map has been adopted by reference, the amending ordinance shall define the change or boundary as amended, shall order the official zoning map to be changed to reflect the amendment, and shall amend the section of the ordinance incorporating the mapand shall reincorporate the map as amended.

SECTION 10-119. CONDITIONAL USES

19.01 Definition Conditional uses are those types of uses which, due to their nature, are dissimilar to the normal uses permitted within a given zoning district or where the product, process, mode of operation, or nature of business may prove detrimental to the health, safety, welfare or property value of the immediate neighborhood and its environs. Within the various zoning districts, conditional uses that are specifically listed in the district regulations, may be permitted only after additional requirements are complied with as established within this section.

19.02 Procedures The consideration of a conditional use application shall be handled in the same manner as a zoning amendment regarding the requirements for public hearing, notices, protests and action by the Planning Commission and City Council.

19.03 Application An application for Conditional Use Permit shall be in writing signed by the owner of the lot, tract of land, building or structure for which the permit is being requested, and if the use is proposed by a person other than the owner, by that person as well. It shall be filed with the City Office along with a filing fee of fifty dollars ($50.00). The application shall state:

1. A description of the lot or tract of land and any buildings or structures located on it, for which the Conditional Use Permit is requested.

2. The name or names of the owner or owners, along with the name of the person or persons proposing the use if other than the owner.

3. A description of the nature of the use for which the permit is requested.

4. A statement of the reason or reasons why the Conditional Use Permit should be

issued.

19.04 Minimum Requirements A conditional use permit shall not be granted unless specific written findings of fact directly based upon the particular evidence presented support the following conclusions:

1. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.

2. The proposed conditional use at the specified location will not adversely affect the welfare or convenience of the public.

3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.

4. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and the use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:

a. The location, nature and height of proposed buildings, structures, walls, and fences on the site, and

b. The nature and extent of landscaping and screening proposed or already on the site.

5. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations.

6. Adequate utility, drainage, and other necessary facilities have been or will be provided.

7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

19.05 Additional Requirements

1. In granting a conditional use, the City Council may impose certain conditions, safeguards and restrictions upon the premises benefitted by the conditional use which may be necessary to reduce or minimize any potential injurious effect of conditional uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

2. If a Conditional Use Permit is issued and a building permit will be necessary,

the building permit shall not be issued until the statutory period for appeal from the decision of the City Council has expired. No building permit may be issued while an application for a Conditional Use Permit is pending or if the application is denied unless the denial is reversed by a court. Once a Conditional Use Permit is granted, the right to the permit shall expire unless the required building permit is applied for within six (6) months after the issuing of the permit.

3. A Conditional Use Permit may not be transferred and, if a change of ownership of the lot or tract of land for which the Conditional Use Permit was issued occurs, the Conditional Use Permit shall terminate.

SECTION 10-120. NOTICES

20.01 Reference to Notice Requirements Where reference is made in this Ordinance to the notice being given as required by Section 19, then the notice shall be given as provided for in Section 20.02 below.

20.02 Method of Giving Notice Notices required pursuant to this section shall be given as follows:

1. Publication. Notice of the time and place of the hearing shall be published once in a newspaper of general circulation in the City at least ten (10) days prior to the hearing.

2. Posting. A notice shall be posted in a conspicuous place on or near the property on which action is pending. The notice shall be not less than eighteen (18) inches in height and twenty-four (24) inches in width with a white or yellow background and black letters not less one and one-half (1 1/2) inches in height. The posted notice shall be placed upon the premises so that it is easily visible from the street nearest to the premises and shall be posted at least ten (10) days prior to the date the hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change the posted notice prior to the hearing. Any person doing so shall be guilty of a misdemeanor.

3. Mailing. If the record title owners of any lots included in the proposed change be nonresidents of the City, then a written notice of the hearing shall be mailed by certified mail to them addressed to their last-known addresses at least ten (10) days prior to the hearing.

20.03 Exceptions to Notice Requirement Notice by posting or mailing shall not apply if:

1. The proposed change is to apply throughout the entire area of an existing zoning district, or

2. Additional or different types of zoning districts are proposed, whether or not the additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the City.

SECTION 10-121. MISCELLANEOUS

21.01 Violations and Penalties Any person who violates any provisions of this Ordinance shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars ($100.00) for each offense. Each and every day that the violation continues shall constitute a separate offense. Whenever a violation exists in these regulations, the City may proceed by a suit in equity to enjoin and abate the violation, in the manner provided by law. Whenever, in any action, it is established that a violation exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgement in the case.